



California Department of Fish and Wildlife
Inland Deserts Region
3602 INLAND EMPIRE BOULEVARD, C-220
ONTARIO, CA, 91764

California Endangered Species Act
 Incidental Take Permit No. 2081-2025-039-06

BARSTOW SANITARY LANDFILL PHASE 1C EXPANSION

I. Authority:

This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4.)

Permittee:	San Bernardino County Department of Public Works
Principal Officer:	Marc Rodabaugh, Engineering Manager
Contact Person:	Patrick Egle, (909) 387-81069
Mailing Address:	825 E. Third Street, Room 123 San Bernardino, CA 92415-0835

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **September 1, 2051**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.7 of this ITP.

¹Pursuant to Fish and Game Code section 86, "'take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 [for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "'take' ... means to catch, capture or kill".])

²The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

III. Project Location:

The Barstow Sanitary Landfill Phase 1C Expansion (Project) is located at 32553 Barstow Road within the unincorporated City of Barstow, San Bernardino County in California at approximately latitude 34.83580 and longitude -117.01801 on Assessor's Parcel Numbers 471-011-13, 417-011-12, and 417-011-07 (see Figure 1). The Project is located east of State Route 247.

IV. Project Description:

The Project involves the expansion of the Barstow Sanitary Landfill and will develop 127-acres of undisturbed open space for the construction of Phase 1C (see Figure 2). Project activities will include vegetation removal and grading of the entire Project Area, excavation of the expansion area, construction of access roads, installation of water lines, erosion control, and the construction of a containment system and exclusionary fencing as described below. Project construction will require the use of heavy equipment such as pickup trucks, front end loaders, dump trucks, water truck excavators, skid steer bulldozers, motor graders, speed loaders, backhoes, and various hand tools.

Containment System

The Project will construct a containment system composed of a composite liner that will be placed on the bottom of the excavated expansion area and on the side along the slopes. The composite liner will consist of two components, the lower component will consist of a layer of compacted soil, and the upper component will consist of high-density polyethylene (HDPE) geomembrane. The Project will construct a collection and removal system within the composite liner that will collect and remove liquid that has seeped through solid waste and separate soluble dissolved or suspended materials in the process heron referred to as leachate. The leachate collection and removal system (LCRS) will be composed of a continuous gravel blanket and integrated drainage pipe collection network made up of lateral collectors and a mainline pipe. The collection pipes will convey accumulated liquid to designated sump areas where it will be pumped into storage tanks and either transported off site for disposal or may be used onsite for dust control. A protective cover consisting of a minimum two-foot-thick soil layer will be placed over the entire composite liner and LCRS components. A geotextile fabric layer will be placed over and beneath the LCRS gravel on the bottom area and interior benches prior to placement of the operations layer.

Perimeter Exclusion Fencing

The Project will construct perimeter exclusion fencing that will be maintained over the life of the Project and will consist of a chain-link fence with desert tortoise exclusionary features. The fencing will include the installation of shade structures along the outer fence perimeter placed at regular intervals 1,000 feet apart to provide shelter for desert tortoises. All gates will be installed with desert tortoise exclusion fencing affixed along the bottom portion of the gate structure.

V. Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

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<u>Name</u>	<u>CESA Status³</u>
1. Agassiz's desert tortoise (<i>Gopherus agassizii</i>)	Endangered ⁴
2. Western burrowing owl (<i>Athene cunicularia hypugaea</i>)	Candidate ⁵

These species and only these species are the "Covered Species" for the purposes of this ITP.

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include vegetation clearing; grading and compaction; excavation; installation of fencing or barriers; general operation of vehicles and heavy equipment; noise, vibration, and dust generating activities; and capture and relocation activities (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as collision with, or crushing by, vehicles or heavy equipment crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from entrapment in holes, trenches, or stockpiles, uncovering Covered Species through the excavation of burrows, and capture and relocation activities. More specifically, relocation of Covered Species to the translocation site may disrupt the behavior and social structure of resident individuals. Relocated adult Covered Species may continue to disperse and never establish a territory, resulting in no reproductive effort and the loss of offspring that are necessary to maintain population viability. The areas where authorized take of the Covered Species is expected to occur include: the entire Project Area and access roads (collectively, the Project Area).

The Project is expected to cause the permanent loss of 127 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise, vibrations from tunneling, and capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

VII. Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittee, its employees, contractors,

³ Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁴See Cal. Code Regs tit. 14 § 670.5 subd. (a)(4)(E).

⁵The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.

and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

VIII. Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking, and noise and vibration generating activities that may/will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2005071084) certified by County of San Bernardino on October 20, 2009, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) Notification No. EPIMS-SBR-55418-R6 for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 5. General Provisions:**
 - 5.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 5.2. Authorized Biologist(s) and Biological Monitor(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Authorized

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Biologist(s) and Biological Monitor(s) using the Biologist Resume Form for desert tortoise (Attachment 2) and western burrowing owl (Attachment 3) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Authorized Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, and handling of the Covered Species. The Authorized Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Authorized Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Authorized Biologist(s) or Biological Monitor(s) must be changed.

- 5.3. Authorized Biologist(s) Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Authorized Biologist(s) shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Authorized Biologist(s) in the performance of his/her duties. If the Authorized Biologist(s) is unable to comply with the ITP, then the Authorized Biologist(s) shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Authorized Biologist(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 5.4. Veterinarian(s).** Permittee shall identify a veterinarian(s) for the Covered Species. Permittee shall obtain written confirmation from the veterinarian(s) that they will accept injured Covered Species for treatment. Written confirmation shall also contain the veterinarian's contact information and facility location. Permittee shall provide a copy to CDFW before starting Covered Activities. The contact information and location of the facility shall be on site for the Authorized Biologist(s) during Covered Activities.
- 5.5. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Authorized Biologist(s) and/or Biological Monitor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or

a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 5.6. Construction Monitoring Documentation.** The Authorized Biologist(s) and/or Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project Area upon request by CDFW.
- 5.7. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.8. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Authorized Biologist(s) and/or Biological Monitor(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.9. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.10. Delineation of Property Boundaries.** Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing to minimize the disturbance of Covered Species' habitat adjacent to the Project Area. The fencing shall include desert tortoise exclusionary features. Shade structures shall be installed along the outer fence perimeter placed at regular intervals 1,000 feet apart to provide shelter for desert tortoises. All gates will be installed with desert tortoise exclusionary fencing affixed along the bottom portion of the gate structure. Permittee shall restrict all Covered Activities to occur only within the fenced Project Area. Permittee shall maintain all fencing until the completion of Covered Activities in the Project Area.

- 5.11. Project Access.** Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads within the Project Area. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.
- 5.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction materials and construction related refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within

the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

6.3. Compliance Monitoring. The Authorized Biologist(s) shall be on-site daily until all Covered Species surveys, translocation, installation of exclusionary fencing, and clearing, grubbing, and grading occurs. The Biological Monitor(s) may assist the Authorized Biologist(s) with daily on-site compliance monitoring. The Authorized Biologist(s) and/or Biological Monitor(s) shall then only be present monthly to conduct compliance inspections, including during periods of inactivity until Covered Activities are completed. The Authorized Biologist(s) shall conduct compliance inspections to:

- (1) minimize incidental take of the Covered Species;
- (2) prevent unlawful take of species;
- (3) check for compliance with all measures of this ITP;
- (4) check all exclusion zones; and
- (5) ensure that fencing, including exclusionary fencing is intact, and that Covered Activities are only occurring in the Project Area.

The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(s) shall prepare daily written observation and inspection records when on-site summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

6.4. Quarterly Compliance Report. The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(s) shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Emily Leon (Emily.Leon@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

6.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a

minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.

- 6.6. CNDDDB Observations.** The Authorized Biologist(s) and/or Biological Monitor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Authorized Biologist(s) and/or Biological Monitor(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.7. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Representative, Authorized Biologist(s) and/or Biological Monitor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species and (8) any other pertinent information.
- 6.8. Notification of Take or Injury.** Permittee shall immediately notify the Authorized Biologist(s) and/or Biological Monitor if a Covered Species is taken or injured by a Covered Activity, if a Covered Species is otherwise found dead or injured within the vicinity of the Project Area, or if eggs or nestlings are found in a nest that has been abandoned as a result of Covered Activities within the vicinity of the Project Area. The Authorized Biologist(s), Biological Monitor(s), or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the common and scientific name, the date and time of the finding or incident, observer name and contact information,

georeferenced location of the animal or carcass (County, GPS location, and GPS datum), sex (if known), life stage/age class (if known), a photograph (if possible), explanation as to cause of take or injury, and any other pertinent information, such as ITP number. The Authorized Biologist(s) or Designated Representative shall provide CDFW weekly updates on the status of the rehabilitation facility's treatment of the individual(s).

- 7. Take Minimization Measures:** The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:

Multi-species Protection Measures

- 7.1. Invasive Plant Management Plan.** Permittee shall develop an Invasive Plant Management Plan (Plan) focused on controlling or eradicating existing invasive plants within the Project Area and preventing the introduction of new nonnative and invasive plants into the Project Area. The Plan shall include a list of plant species targeted for control or eradication, a description of the methods that will be used for control or eradication, a list of Best Management Practices to prevent the introduction and spread of invasive plant species into and out of the Project Area, monitoring requirement, success criteria, and a rapid response plan in the event that a new plant species invades the Project Area. A list of common invasive plant species including guidelines for preventing the establishment of invasive plants can be found on the California Invasive Plant Council Invasive Plant Inventory (Cal IPC Inventory) website. The Plan shall be implemented during Covered Activities and monitored for the time specified in the Plan. The Plan shall be submitted to CDFW for review and approval no later than 60 days prior to the commencement of Covered Activities.
- 7.2. Herbicides.** Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). All herbicides shall be applied in accordance with regulations set by DPR. All herbicides shall be used according to labeled instructions. Labeled instructions for the herbicide used shall be made available to CDFW upon request. No herbicide application shall occur when winds are greater than five miles per hour.
- 7.3. Rodenticides and Insecticides.** Permittee shall not use rodenticides and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Area without prior written permission from CDFW.

- 7.4. Entrapment Inspections.** The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect any pipes, culverts, or similar structures with a diameter greater than 3 inches for Covered Species individuals and eggs before the material is moved, buried, or capped. The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect all open holes and trenches that may act as pitfall traps within Covered Species habitat at a minimum of twice a day and just prior to backfilling until all Covered Species surveys, translocation, installation of exclusionary fencing, and clearing, grubbing, and grading occurs. At the end of each workday during construction, Permittee shall place an escape ramp at each end of trenches, excluding the borrow area on Figure 2 to allow any animals that may have become trapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees. If any worker discovers that Covered Species have become trapped, they shall halt Covered Activities and notify the Biological Monitor(s) and/or Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) and/or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or a Authorized Biologist(s) approved under Condition of Approval 5.2 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.
- 7.5. Erosion Control.** To minimize the risk of ensnaring and strangling Covered Species, Permittee shall not use erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, coconut (coir) fiber, or other products without welded weaves. Permittee shall use erosion control materials composed entirely of natural-fiber biodegradable materials. Permittee shall not use plastic "photodegradable" erosion control materials.
- 7.6. Covered Species Injury.** If a Covered Species is injured or killed as a result of Project-related activities or nestling(s) or egg(s) are found in a nest and/or burrow abandoned as a result of Covered Activities within the vicinity of the Project Area, the Authorized Biologist(s) shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility approved per Condition of Approval 5.4. Permittee shall identify the facility before starting Covered Activities. If nestling(s) or egg(s) are abandoned, the Authorized Biologist(s) shall recover the nestling(s) or egg(s) and immediately take them to a CDFW-approved wildlife rehabilitation center or veterinary facility approved per Condition of Approval 5.4. Permittee shall bear any costs associated with the care, treatment, and recovery of any injured Covered Species adults, abandoned nestling(s) or egg(s), and release and hacking (controlled release of captive reared young). Release and/or hacking location(s) shall be approved by CDFW prior to release of the Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 6.8. Notification shall include the name of the facility where the animal was taken.

- 7.7. Covered Species Observation.** If a Covered Species is observed during Covered Activities, all work within 300 feet of the Covered Species shall immediately stop and the observation shall be immediately reported to the Authorized Biologist(s) and/or Biological Monitor(s). Covered Activities shall not resume until the Authorized Biologist(s) and/or Biological Monitor(s) has verified the Covered Species has left the Project Area or an Authorized Biologist(s) approved under Condition of Approval 5.2 of this ITP relocates the Covered Species as described in this ITP and Desert Tortoise Translocation Plan or the Western Burrowing Owl Mortality Reduction Plan. The Designated Representative shall notify CDFW of any Covered Species observations within the Project Area. Notification shall occur within 24 hours. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Authorized Biologist(s) that relocated the individual, pictures, map and shapefiles with the location (including GPS coordinates) where the individual was moved as specified in the Desert Tortoise Translocation Plan (Condition of Approval 7.11) or the Western Burrowing Owl Mortality Reduction Plan (Condition of Approval 7.20).

Desert Tortoise Protection Measures

- 7.8. Raven Management Plan.** Permittee shall prepare a Raven Management Plan to minimize the potential to attract common ravens to the site. The Plan shall be submitted to CDFW for review and approval no later than 60 days prior to the commencement of Covered Activities. In addition, the Permittee shall provide funds to the Desert Managers Group (DMG) account established with the National Fish and Wildlife Foundation (NFWF) to contribute to a region-wide raven control plan to help address raven predation on desert tortoise. This contribution shall be used to address raven predation on a regional basis and shall be calculated as a one-time payment of \$105 per acre of Project disturbance. Based on this calculation the Permittee shall provide a one-time payment at \$105.00/acre for 127 acres at **\$13,335** to the REAT account established with NFWF's Raven Management Plan fund. A minimum of 15 days prior to the start of Covered Activities these funds shall be provided to NFWF using appropriate deposit document and proof of paying this fee shall be provided to CDFW within one business day after the funds have been provided to NFWF.
- 7.9. Surveys Before Desert Tortoise Exclusionary Fence Installation.** Prior to installation of the desert tortoise exclusionary fence, surveys for Western burrowing owl and desert tortoise shall be completed along the fence line and within an appropriate buffer determined by the Authorized/Designated Biologist(s) to ensure no burrows are occupied by either desert tortoise or Western burrowing owl. Surveys shall occur during the desert tortoise active season (generally April to May and September to October). If desert tortoise or Western burrowing owl is present, Permittee shall relocate individuals found along the fence line per the CDFW approved translocation plans in Condition of Approval 7.11 and Condition of Approval 7.20, respectively. Individuals found within the buffer shall be flagged for avoidance as per the CDFW approved translocation plans in Condition of Approval 7.11

and/or Condition of Approval 7.20. If the exclusionary fence is installed during desert tortoise inactive season a fencing plan shall be submitted to CDFW for review and approval at least 30 calendar days prior to commencing installation of the desert tortoise exclusionary fence. The fencing plan shall include gaps in the fence to allow desert tortoise to enter and exit the Project Area. Gaps shall be closed during the subsequent desert tortoise active season and following gap closure, surveys shall be performed according to Condition of Approval 7.10 and 7.22.

7.10. Desert Tortoise Clearance Surveys Within Exclusionary Fencing. The Authorized Biologist(s) approved under this ITP shall conduct pre-construction clearance surveys for desert tortoise during the active season (generally April to May and September to October) using the methods described in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual (hereinafter referred to as USFWS Field Manual). The Biological Monitor(s) may assist the Authorized Biologist(s) in conducting pre-construction surveys. In addition to the guidance provided in the USFWS Field Manual, CDFW provides the following requirement(s):

7.10.1. Pre-construction clearance surveys shall be completed within the fenced areas containing desert tortoise exclusionary fencing using perpendicular survey routes. Pre-construction clearance surveys cannot be combined with other clearance surveys conducted for other species while using the same personnel. Covered Activities cannot start until two negative results from consecutive (proceeding) surveys using perpendicular survey routes for the Covered Species are documented. A negative result means no new live desert tortoise is detected.

7.10.2. These surveys shall cover 100 percent of the area within desert tortoise exclusionary fencing and a 50-foot buffer zone around the Project Area. The Authorized Biologist(s) and/or Biological Monitor(s) shall record all potential Covered Species burrows, Covered Species sign, and live Covered Species within the pre-construction clearance survey area, using global positioning system (GPS) technology. The Authorized Biologist(s) and/or Biological Monitor(s) shall provide the results of the preconstruction clearance survey (including all information of the USFWS Protocol data sheet) to CDFW within 30 calendar days of completing the surveys. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.

7.11. Desert Tortoise Translocation Plan. Regardless of the number of desert tortoise estimated to be moved out of harm's way, Permittee shall submit to CDFW for review and approval a Desert Tortoise Translocation Plan prepared by the Authorized Biologist(s) at least 30 calendar days prior to start of Covered Activities. Covered Activities are not authorized to start until the Desert Tortoise Translocation Plan is approved in writing by CDFW. The Desert Tortoise Translocation Plan shall follow the most current guidelines provided by

USFWS and CDFW regarding Covered Species translocation. Where guidance differs between USFWS and CDFW, Permittee shall coordinate with CDFW, to determine an approach forward. The list of items below are the most common examples of the differences between CDFW and USFWS guidelines. These shall be included in the Desert Tortoise Translocation Plan along with the most recent USFWS translocation guidelines:

- Translocated tortoises are tortoises removed from the Project Area, are disease tested, and have a radio transmitter attached.
- The Authorized Biologist(s) shall determine when the creation of artificial burrows is needed.
- Ambient air temperature guidelines shall be followed as specifies in Condition of Approval 7.13 of this ITP.
- Tortoises <100 millimeters (mm) midline carapace length (MCL) shall be released immediately without being held, transmitted, or blood drawn for disease testing as long as the temperature requirements of Condition of Approval 7.13 of this ITP below are met.
- Tortoises >100 mm MCL that are translocated from the Project Area shall be transmitted and monitored for 5 years post translocation or as otherwise approved by CDFW in writing.
- All tortoise >100 mm MCL found during pre-construction clearance surveys, which are to be translocated from the Project Area, shall be tested for disease as follows during the active season, unless approved in writing by CDFW. Blood draw samples for *Mycoplasma agassizii* and *Mycoplasma testudineum* shall determine if a tortoise is negative or positive for disease. A combination of results from blood testing and visual inspection will be used to determine the health of a tortoise. Blood draw samples will be sent to: Dr. Mary Brown, University of Florida, Department of Infectious Diseases and Immunology, 2015 SW 16th Ave., Room V2-234, Gainesville, Florida 32608, or other facility approved by CDFW. CDFW uses enzyme-linked immune assay (ELISA) test results to determine if a tortoise is positive for disease. The ELISA tests will be used to test for exposure to herpes virus (*Mycoplasma agassizii* and *Mycoplasma testudineum*). To determine results of blood testing, use the most current guidelines provided by the University of Florida Mycoplasma Laboratory Department of Infectious Diseases and Pathology. The University of Florida Mycoplasma Laboratory Department of Infectious Diseases & Pathology 2013 criteria for classifying *Mycoplasma agassizii* and *Mycoplasma testudineum* is: (1) a titer <32 is negative, (2) a titer > 64 is positive, and (3) a titer of 32 is suspect (retesting in 6 weeks) or most current guidelines. All sample forms shall come from the University of Florida's guidance.

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- If a tortoise > 100 mm MCL tests positive for disease, Permittee must contact CDFW immediately and tortoise shall be tested twice for disease during the active season (once in the spring after May 15 to May 31 and once in the fall). All actions regarding the handling, transport, and quarantine of infected tortoise must be approved in writing by CDFW on a case-by-case basis. Following consultation with disease investigation laboratory, testing, and treatment, Permittee can translocate a disease positive tortoise with no outward sign of disease to a recipient site that has other disease positive individuals with prior written approval from CDFW. A recipient site that accepts disease positive tortoise shall be approved by CDFW in the Desert Tortoise Translocation Plan prior to translocation.
- If a tortoise >100 mm MCL tests negative for disease, it can be translocated in accordance with the approved Desert Tortoise Translocation Plan, with written approval from CDFW.
- The Desert Tortoise Translocation Plan shall include a requirement that all translocated tortoises regardless of size be included in the translocation numbers and all reports.
- The Desert Tortoise Translocation Plan shall propose one recipient site. Recipient sites shall have the vegetative structure to support all life stages of desert tortoises.
- In addition to the USFWS Field Manual guidelines, the Desert Tortoise Translocation Plan shall also include: (1) identifying the known threats or potential causes of population decline for desert tortoise, (2) how potential threats have been or would be addressed for translocated individuals, (3) complete physical examination and health assessments for translocated individuals, (4) approximate age and sex of translocated individuals, and (5) vegetation classification and quality of habitat of the recipient site. The Desert Tortoise Translocation Plan shall detail which characteristics are to be used to decide if a recipient site is similar enough to a Project Area including burrow aspects, and recovery needs such as habitat restoration and/or predator control.
- All tortoises >100 mm MCL removed off the Project Area shall be transmittered and monitored for 5 years post translocation or at the expiration of this ITP, whichever occurs first.
- Recipient sites shall be a minimum of 4 miles (6.5 kilometers) away from highway/road right-of-way that does not include Covered Species fencing.
- Creation of artificial burrows, as well as translocation of tortoises and eggs shall only occur on land(s), when written authorization has been obtained from the landowner

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prior to the start of Covered Activities. The written permission from the landowner shall be included in the Desert Tortoise Translocation Plan and the Desert Tortoise Translocation Plan shall not be approved by CDFW until authorization is provided in writing. If creation of artificial burrows or translocation of tortoise or eggs is proposed to take place on private lands then in addition to written approval required above, some form of protection for the land such as a conservation easement shall be in place prior to translocation occurring.

- “Trifectant” and “Rescue Ready to Use One Step Disinfectant Cleaner” shall be the only products authorized to be used during the translocation process. These products are not authorized to be applied using a spray bottle or other spray methods. Cleaning and Disinfection Protocol shall include the following:
 - Remove all grossly visible debris.
 - Wash the area or item with water and mild detergent.
 - Thoroughly rinse the cleared area to remove any detergent residue.
 - Allow the area to dry completely.
 - Apply disinfectant mixture.
 - Allow the full disinfectant product recommended contact time.
 - Thoroughly rinse away any residual disinfectant and allow the area/item to air dry.

7.12. Covered Species Handling Records. The Authorized Biologist(s) shall maintain a record of all Covered Species handled. This information shall include: (a) the locations (narrative and maps) and dates of observation, including whether the individual(s) was found above ground or in a burrow; (b) ambient temperature when handled and released; (c) general condition and health of the individual(s), including injuries, state of healing, and whether the individual(s) voided its bladders; (d) identified diagnostic markings (i.e., identification numbers or marked marginal scutes); (e) location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (f) whether any eggs were discovered and relocated; (g) digital photographs of any Covered Species and eggs handled; and (h) results of ongoing monitoring. The Designated Representative(s) shall provide CDFW with the information listed above submitted in the reports following Condition of Approval 6.4, 6.5 and 6.7.

7.13. Ambient Air Temperature for Desert Tortoise. During all handling procedures, Covered Species shall be treated in a manner to ensure that they do not overheat or exhibit signs of

overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Covered Species shall be kept shaded at all times until it is safe to release them. For the purposes of this permit, ambient air temperature shall be measured in the shade, protected from wind, at a height of five centimeters above the ground surface. For all Covered Activities no Covered Species shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95° Fahrenheit (F) (35° Celsius (C)). No Covered Species shall be captured if the ambient air temperature is anticipated to exceed 95° F (35° C) before handling or processing can be completed. If the ambient air temperature exceeds 95° F (35° C) during handling or processing, Covered Species shall be kept shaded in an environment that does not exceed 95° F (35° C), and not released until ambient air temperature declines to below 95°F (35°C). Covered Species moved during the less active season (June 1 to August 31 and November 1 to March 31) shall be monitored by the Authorized Biologist(s) for at least two days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured Covered Species overnight and move them the following morning within these temperature constraints.

7.14. Desert Tortoise Species Rehydration. If a Covered Species voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the animal(s). The Authorized Biologist(s) shall rehydrate the Covered Species immediately at the location where the animal(s) was or were captured, or the location where the animal(s) is or will be released. The Authorized Biologist(s) shall rehydrate the Covered Species by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the Covered Species. The Authorized Biologist(s) shall rehydrate each Covered Species individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration.

7.15. Desert Tortoise Burrow Excavation. Only Authorized Biologist(s) and Biological Monitor(s) under Condition of Approval 5.2 are authorized to conduct burrow excavation. The Biological Monitor(s) may only excavate burrows by hand under the direct supervision of the Authorized Biologist(s). Excavation of burrows shall follow the methods described the USFWS Field Manual.

7.16. Desert Tortoise Exclusionary Fencing. Permittee shall expand the existing desert tortoise exclusionary fencing and install permanent exclusionary fencing to encompass the outer perimeter of the Project Area (see Figure 3). The Authorized Biologist(s) shall inspect the existing exclusionary fencing for Covered Species prior to the removal of the existing fencing. The Biological Monitor(s) may assist with fence inspections prior to removal. The exclusionary fencing shall include the installation of shade structures along the outer fence perimeter placed at regular intervals. All gates shall be installed with desert tortoise

exclusion fencing affixed along the bottom portion of the gate structure. The exclusionary fencing shall be constructed according to USFWS Field Manual (see Attachment 4). The Authorized Biologist(s) shall oversee the installation of the exclusionary fencing and inspect the fencing monthly thereafter and immediately following significant rain events. The Biological Monitor(s) may provide assistance with fence inspections. If repairs are needed to the fencing, temporary repairs shall occur immediately (within 24 hours) upon detection and permanent repairs shall occur no later than 7 days of observing the damage.

- 7.17. Desert Tortoise Exclusionary Fence Maintenance.** The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect the desert tortoise fencing monthly and within 24 hours during major rainfall events to ensure Covered Species is prohibited from entering the Project Area. If the fence is compromised, repairs shall be completed immediately (within 24 hours), and the Authorized Biologist(s) shall verify that desert tortoise has not entered the Project Area. If desert tortoise is confirmed to have entered the Project Area, the Desert Tortoise Translocation Plan in Condition of Approval 7.11 shall be implemented.
- 7.18. Vehicle Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Authorized Biologist(s) or Biological Monitor(s) and wait for the Covered Species to be unimpeded to a safe location or the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 7.11 before moving vehicles and equipment.
- 7.19. Staging Area and Parking Area.** Permittee shall confine all Project-related parking, storage areas, lay down sites, equipment storage, and any other surface-disturbing activities to the Project Area and/or previously disturbed areas within the existing landfill. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the Project Area. If a Covered Species is found within a staging or parking area the worker shall immediately contact the Authorized Biologist(s) and/or Biological Monitor(s) approved in Condition of Approval 5.2 of this ITP. An Authorized Biologist(s) approved in Condition of Approval 5.2 of this ITP shall relocate the Covered Species in accordance with Condition of Approval 7.11 of this ITP and the Desert Tortoise Translocation Plan.

Western Burrowing Owl Protection Measures

The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. For the purposes of the Conditions of Approvals below, Covered Species refers to western burrowing owl, and their burrows are defined as:

Known Burrow: A known Covered Species burrow is a burrow that shows evidence of current or past use within the last three years or is known based on Project observations to have been

used in the past, which includes natural and “atypical” burrows (e.g., a pipe, culvert, buckled concrete, etc.).

Nesting Burrow: A nesting Covered Species burrow is a known burrow with indications of the presence of eggs, chicks, dependent young, and/or evidence of adult courtship behavior, brooding or egg incubation.

Permittee shall implement and adhere to the following conditions to minimize take of western burrowing owl:

7.20. Western Burrowing Owl Mortality Reduction Plan. The Permittee shall submit a Western Burrowing Owl Mortality Reduction Plan prepared by the Authorized Biologist(s) to CDFW at least 30 days prior to beginning Covered Activities. Burrow exclusion, burrow excavation, burrow collapsing, artificial burrow construction, and other relocation activities shall not proceed until this plan has been approved in writing by CDFW. The Western Burrowing Owl Mortality Reduction Plan shall include, but not be limited to: detailed description of survey methodology, including the time and date of survey(s), survey area with buffer, and statuses of previously identified suitable burrows; detailed burrow exclusion and excavation methods; methods for monitoring Covered Species pre- and post-exclusion; proposed avoidance buffers based on Covered Activities and disturbance level; proposed Covered Activities that may occur within a buffer reduction request; identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured Covered Species or care for at-risk Covered Species, Covered Species eggs, and/or Covered Species chicks per Condition of Approval 5.4; and procedure for collection and storage of Covered Species carcasses. The plan should also include a discussion and map of potential artificial burrow replacement locations; description of the replacement burrow design and dimensions (e.g., depth and width of burrow, width of burrow entrance, orientation of burrow entrance, number and placement of entrances to natal burrows); artificial burrow installation methods; and long-term artificial burrow protection and maintenance methods; and timing of artificial burrow installation/construction. Only CDFW-approved Authorized Biologist(s) shall handle and transport injured Covered Species for treatment or impacted Covered Species eggs for salvage. All other Covered Species handling is prohibited.

Once the Western Burrowing Owl Mortality Reduction Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Every five years following execution of this ITP, the Western Burrowing Owl Mortality Reduction Plan shall be reviewed by the Permittee and CDFW. Permittee shall revise the Western Burrowing Owl Mortality Reduction Plan based on the best available science, and as CDFW deems appropriate. Any Permittee proposed changes to the Burrowing Owl Mortality Reduction Plan shall be submitted, in writing, to CDFW and approved in writing prior to the implementation of any proposed modifications.

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- 7.21. Western Burrowing Owl Burrow Replacement.** Permittee shall replace each known Covered Species burrow (as defined above) that cannot be avoided within the Project Area with an artificial burrow to compensate for the loss of important shelter used by Covered Species for protection, reproduction, nesting, and escape from predators. Permittee shall submit to CDFW for review and approval the proposed location where burrow replacements will be constructed. Permittee shall obtain all necessary landowner approvals and authorizations prior to the construction of artificial burrows.
- 7.22. Western Burrowing Owl Pre-Construction Surveys and Reporting.** The Authorized Biologist(s) shall conduct pre-construction surveys in the entire Project Area to identify, flag, and map all potential, known, and/or nesting Covered Species burrows (as defined above) within 30 calendar days prior to beginning Covered Activities. The Biological Monitor(s) may assist the Authorized Biologist(s) with conducting pre-construction surveys. Surveys shall include the Project Area and 500 feet (where feasible) beyond the limits of the Project Area, unless otherwise approved in advance and in writing by CDFW. Surveys shall be conducted as detailed within Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012). If the Authorized Biologist(s) identifies any potential, known, or nesting Covered Species burrow(s), the burrow(s) shall be monitored following Conditions of Approval 7.25 and 7.26, unless avoided per Condition of Approval 7.24. If the Authorized Biologist(s) identifies any potential, known, or nesting Covered Species burrows, no-disturbance buffer zones shall be established per Condition of Approval 7.24. Permittee shall provide the pre-construction survey results with a Burrow Complex Map (Condition of Approval 7.23) in a written report to CDFW's Regional Representative at least five calendar days prior to the beginning of Covered Activities. The report shall include, but not be limited to, methodology, survey date, and apparent status of each burrow (potential, known, or nesting).
- 7.23. Burrow Complex Map.** The Authorized Biologist(s) shall provide a KMZ map to CDFW of all burrows found during the pre-construction surveys performed per Condition of Approval 7.22. The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all Covered Species sightings and labeled if sightings were known burrows, nesting burrows, potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and Covered Species sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area and a title, north arrow, scale bar, and legend. If a lapse in Project-related work of 14 calendar days or longer occurs within areas of suitable habitat for Covered Species, Permittee shall contact the CDFW Regional Representative by email and may be required to provide an updated Burrow Complex Map before work may be reinitiated.
- 7.24. Burrow Avoidance.** For any potential Covered Species burrows that remain onsite, Permittee shall establish no-disturbance buffer zones as described in the Western

Burrowing Owl Mortality Reduction Plan around known (including roosting and satellite burrows) and nesting Covered Species burrows according to the following guidelines:

- 7.24.1. If a known Covered Species burrow is discovered, Permittee shall establish a minimum no-disturbance buffer. A no-disturbance buffer as described in the Western Burrowing Owl Mortality Reduction Plan shall be established around known burrows.
- 7.24.2. If a nesting Covered Species burrow is discovered within or immediately adjacent to the Project Area, Permittee shall follow procedures outlined in the Western Burrowing Owl Mortality Reduction Plan.
- 7.24.3. If Covered Species burrows cannot be avoided as described above, Permittee shall implement Conditions of Approval 7.20, 7.25, and 7.26 as appropriate. Covered Species burrows that cannot be avoided shall be replaced per Condition of Approval 7.21.

If Covered Species individuals are visibly stressed by the Covered Activities or workers in the vicinity after these no-disturbance buffers are established, all work in the vicinity shall immediately cease and increased no-disturbance buffers shall be determined by the Authorized Biologist(s) based on their behavioral observations of the affected Covered Species. The Authorized Biologist(s) shall report to CDFW any buffers that were increased due to behavioral observations for evaluation and determination of buffer effectiveness. Permittee shall change the method of marking the no disturbance buffer if corvids, raptors, or other predators are observed perching on marking materials. The Permittee shall limit the materials necessary to mark the no-disturbance buffer to that which is necessary for identification of the site. The Permittee shall delineate the no-disturbance buffer with different materials than those used to delineate the Project Area. The Permittee shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project.

The buffers prescribed above shall not be reduced or otherwise modified below the minimum distance as described in the Western Burrowing Owl Mortality Reduction Plan.

- 7.25. Burrow Exclusion and Excavation.** The Authorized Biologist(s) or the Biological Monitor(s) under direct supervision of the Authorized Biologist(s), shall excavate known or potential Covered Species burrows that exhibit signs or current or past western burrowing owl use or characteristics suggestive of a western burrowing owl burrow (including burrows in natural substrate and in/under man-made structures) that cannot be avoided per the Condition of Approval 7.24 within the Project Area. Exclusion shall occur outside the breeding season unless otherwise approved by CDFW in advance in writing. Burrows to be destroyed shall be fully excavated, filled with dirt or soil, and compacted to ensure that Covered Species

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cannot reenter or use the burrow during the period that Covered Activities occur in the Project Area. An established no-disturbance buffer around a burrow may be removed once the burrow is collapsed and the Covered Species(s) is/are no longer using the burrow.

7.25.1. Potential Covered Species burrows (any subterranean hole eight centimeters or larger for which no evidence is present to conclude that the burrow is being used or has been used by a Covered Species) without any signs of Covered Species or characteristics suggesting it is a Covered Species burrow may be excavated immediately without prior camera monitoring by the Authorized Biologist(s) or the Biological Monitor(s) under direct supervision of the Authorized Biologist(s).

7.25.2. Excavation of known Covered Species burrows shall only occur after the Authorized Biologist(s) has determined that the Covered Species is not currently present after four consecutive 24-hour periods of monitoring with infrared cameras. Burrows shall be carefully hand excavated with hand tools, or by mechanical means if a specific methodology is approved in writing by CDFW, until it is certain no individuals of Covered Species are inside. If during the excavation process, evidence of current use by the Covered Species is discovered, then burrow excavation shall cease immediately, and camera monitoring as described above shall be conducted/resumed. CDFW shall be notified immediately.

7.25.3. Covered Species burrows used for nesting shall not be excavated until biological and camera monitoring confirm that the chicks have fledged, are foraging independently, and are no longer dependent on the nest, and then only after written concurrence from CDFW.

7.26. Burrow Blockage. If an unoccupied Covered Species burrow can be avoided by construction and does not need to be collapsed but is within a distance of construction to cause significant stress to the Covered Species, the Authorized Biologist(s) shall block rather than destroy the burrow. The Biological Monitor(s) may assist the Authorized Biologist(s) with blocking of burrows. The blocked burrow will be unblocked and made available for use after construction is complete. Burrow blockage shall be done in a manner that prevents burrowing animals from digging back into the burrow. All blocked burrows shall be monitored by the Authorized Biologist(s) or Biological Monitor(s) at least once a week to ensure that the exclusionary material is still intact. If Covered Species gains access to the burrow, the Authorized Biologist(s), Biological Monitor(s), or Designated Representative shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked burrows shall be unblocked within 48 hours of completion of Covered Activities within the prescribed buffer distance.

7.27. Artificial Nighttime Lighting. Throughout construction and the lifetime operations of the Project, Permittee shall eliminate all nonessential lighting throughout the Project Area and

avoid or limit the use of artificial light at night between the hours of dusk and dawn when many wildlife species are most active. Permittee shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space, burrows or Covered Species habitat, and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at <http://darksky.org/>). Permittee shall ensure use of lighting with a correlated color temperature of 3,000 Kelvins or less.

- 8. Habitat Management Land Acquisition:** CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall either purchase 635 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 8.2 below OR shall provide for both the permanent protection and management of 635 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.

- 8.1. Cost Estimates.** For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:

- 8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$5,000/acre for 635 acres: **\$3,175,000.00**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
- 8.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.3.1 and 8.3.2 below: **\$17,440.00**;

- 8.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.6 below, estimated at **\$1,270,000.00**; including.
- 8.1.4. Interim management period funding as described in Condition of Approval 8.3.7 below, estimated at **\$381,000.00**;
- 8.1.5. Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$3,100/acre for 635 acres: **\$1,968,500**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 8.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at **\$6,000.00**.
- 8.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$75,000.00**.
- 8.2. Covered Species Credits.** If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 635 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.
- 8.3. Habitat Management Lands Acquisition and Protection.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:
 - 8.3.1. Fee Title. Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity,

person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.

- 8.3.2. Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 8.3.3. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species;
- 8.3.4. HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 8.3.5. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.

8.3.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see optional management plan template at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;

8.3.7. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.

Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

8.4. Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation

thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

8.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.

Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).

Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

8.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

8.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the

endowment assessment and adjust for any additional administrative, periodic, or annual fees.

8.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

8.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

8.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

8.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

8.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.

8.4.4. Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind

governing the holding, investment, management, and/or disbursement of the Endowment funds.

Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.

8.5 Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

9. Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

9.1. Security Amount. The Security shall be in the amount of **\$6,892,940.00** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

9.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 5) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

9.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.

9.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

9.5. Security Transmittal. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.

9.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

- 9.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

Credit Purchase

- Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits; and
- Timely submission of all required reports.

Habitat Management Land Acquisition (HMLA)

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

IX. Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether

that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Authorized Biologist(s) nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XI. Liability:

All terms and conditions of this ITP shall be binding upon each Permittee. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee shall be jointly and severally liable for performance of all terms, conditions, and obligations of this ITP and shall be jointly and severally liable for any unauthorized take or other violations of this ITP, whether committed by Permittees or any person acting on behalf of one or more Permittees, including their officers, employees, representatives, agents or contractors and subcontractors. Any failure by one or more Permittees to comply with any term, condition, or obligation herein shall be deemed a failure to comply by all Permittees.

XII. Compliance with Other Laws:

This ITP sets forth CDFW's requirements for the Permittee to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittee is responsible for complying with all other applicable federal, state, and local law.

XIII. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2025-039-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Heidi Calvert, Regional Manager
California Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 484-0167

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SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS
BARSTOW SANITARY LANDFILL PHASE 1C EXPANSION PROJECT

Heidi.Calvert@wildlife.ca.gov

and a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA 94244-2090
CESA@wildlife.ca.gov

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Emily Leon, Environmental Scientist
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(760) 644-5976
Emily.Leon@wildlife.ca.gov

XIV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, County of San Bernardino. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Barstow Sanitary Landfill Expansion Project EIR, (SCH No.: 2005071084) dated July 2007 that the County of San Bernardino certified for Barstow Sanitary Landfill Phase 1C Expansion Project on October 20, 2009. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

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XV. Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Barstow Sanitary Landfill Expansion Project EIR, the results of consultations and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 635 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes

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consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

XVI. Attachments:

FIGURE 1	Map of Project Location
FIGURE 2	Project Area Plan
FIGURE 3	Desert Tortoise Fencing Plan
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form for Desert Tortoise
ATTACHMENT 3	Biologist Resume Form for Burrowing Owl
ATTACHMENT 4	Desert Tortoise Exclusion Fence
ATTACHMENT 5	Letter of Credit Form

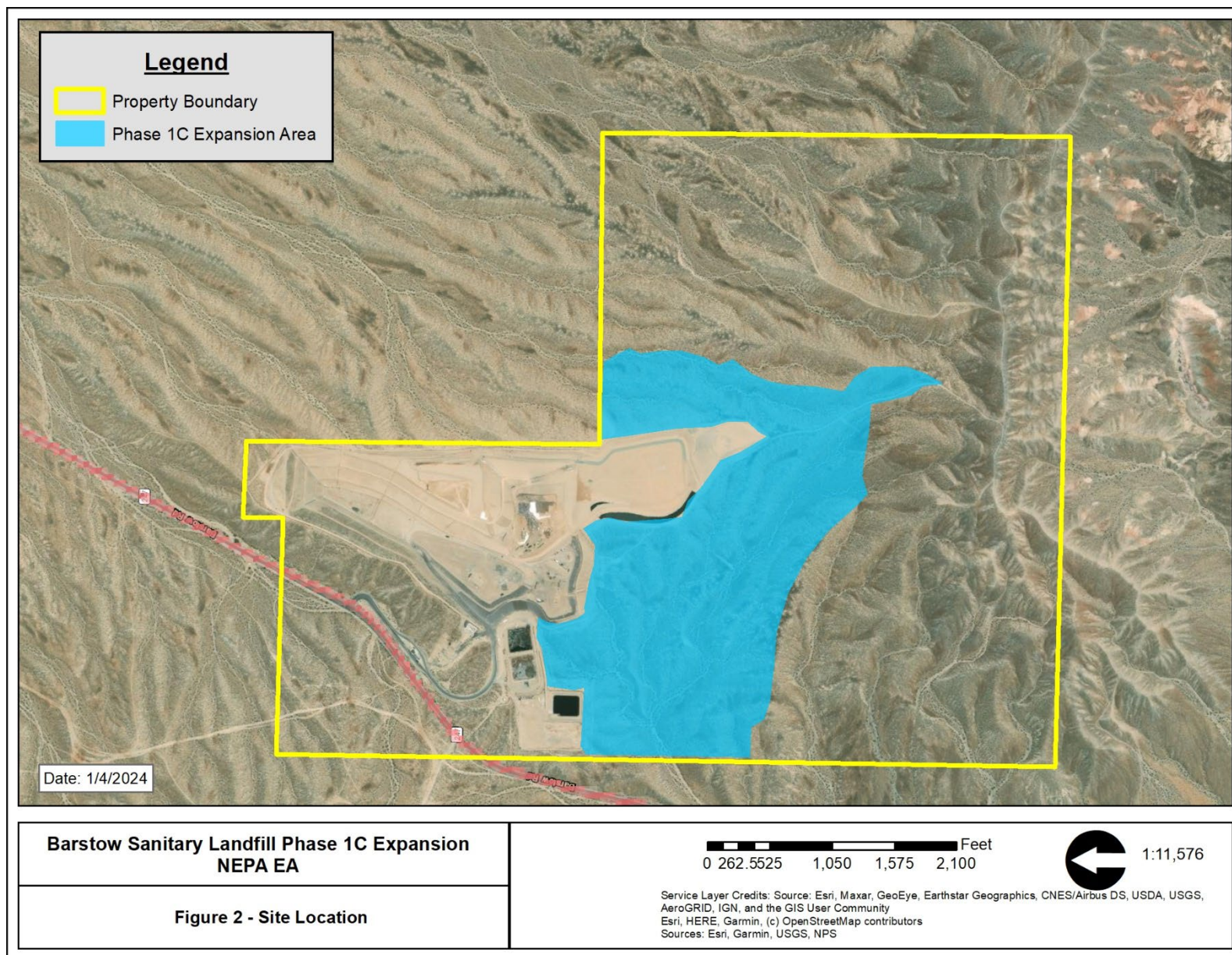
ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 09/02/2026

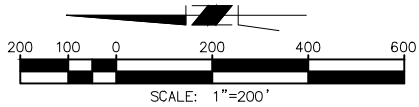
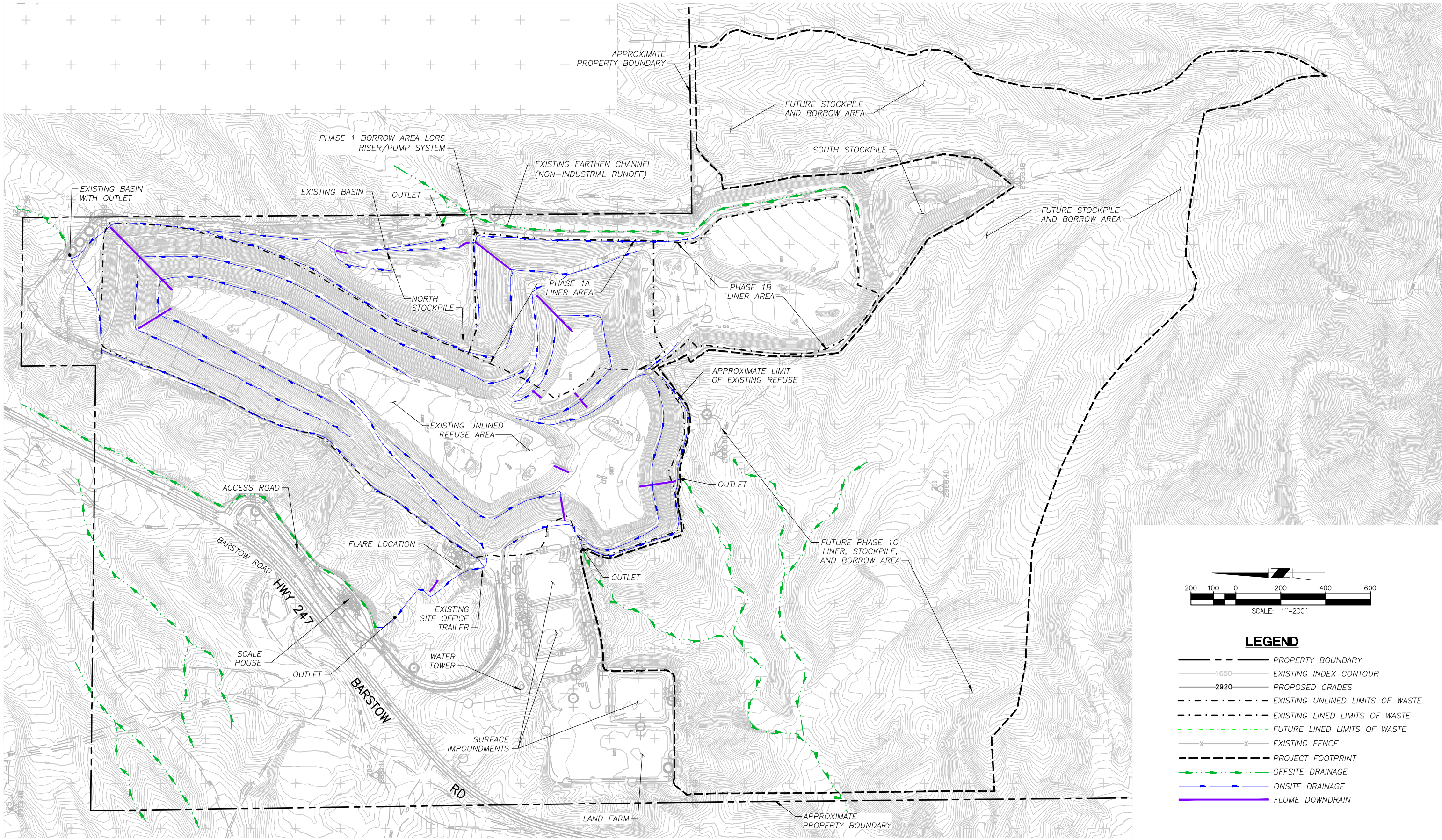
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Heidi Calvert, Regional Manager
 Inland Deserts Region

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SAN BERNARDINO COUNTY DEPARTMENT OF PUBLIC WORKS
BARSTOW SANITARY LANDFILL PHASE 1C EXPANSION PROJECT





LEGEND

- PROPERTY BOUNDARY
- 1650 --- EXISTING INDEX CONTOUR
- 2920 --- PROPOSED GRADES
- - - - - EXISTING UNLINED LIMITS OF WASTE
- - - - - EXISTING LINED LIMITS OF WASTE
- - - - - FUTURE LINED LIMITS OF WASTE
- x - x - EXISTING FENCE
- - - - - PROJECT FOOTPRINT
- - - - - OFFSITE DRAINAGE
- - - - - ONSITE DRAINAGE
- FLUME DOWNDRAIN

PREPARED BY:

SWT Civil & Environmental Engineering

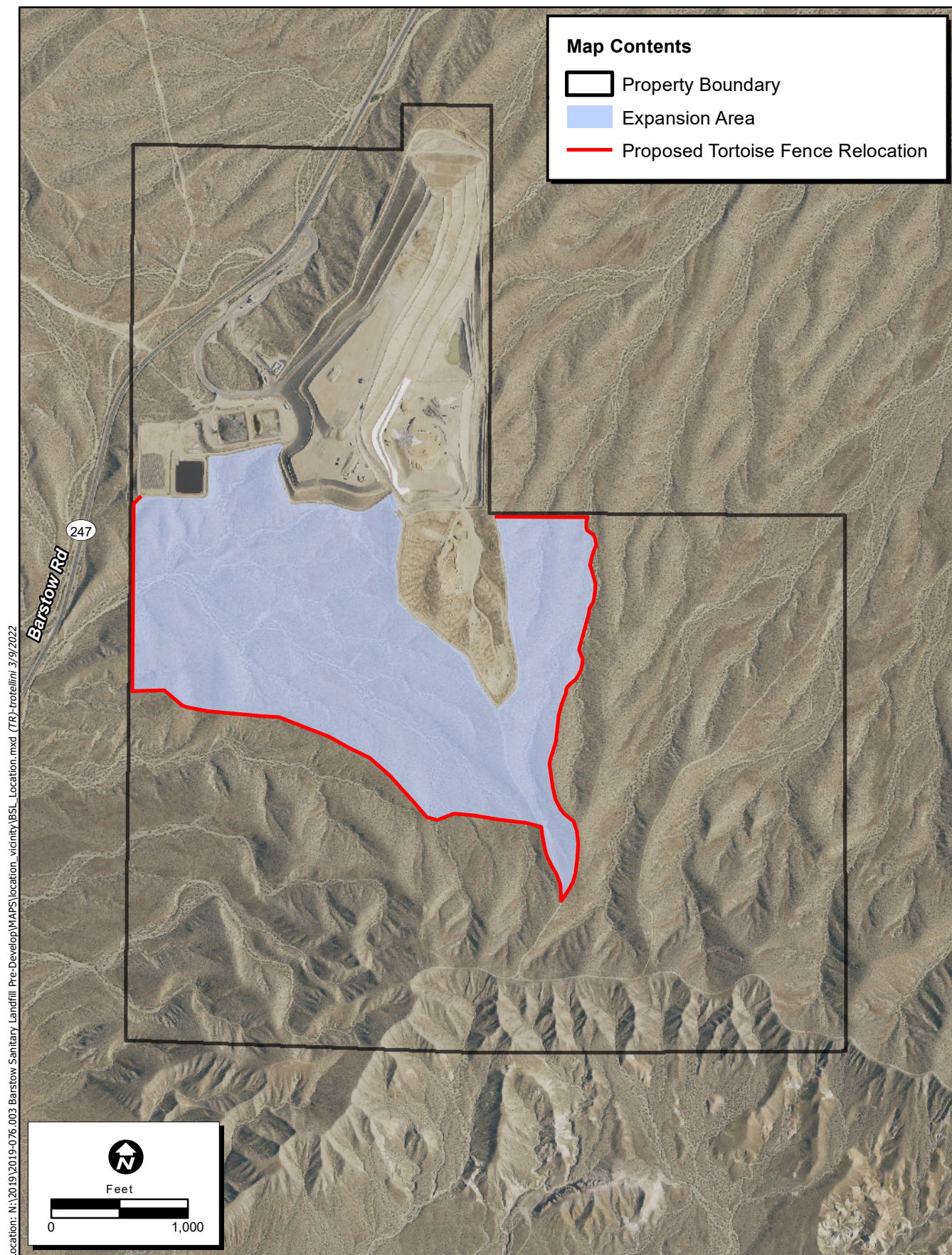
800-C ROCHESTER AVE.
SANTA ANA, CALIFORNIA 92705

DATE OF TOPOGRAPHY: JANUARY 6, 2025

SAN BERNARDINO COUNTY

BARSTOW SANITARY LANDFILL

SITE PLAN



Map Date: 2/28/2022
Photo Source: NAIP (2020)

Figure 1-2. Project Location

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT**

INCIDENTAL TAKE PERMIT NO. 2081-2025-039-06

PERMITTEE: San Bernardino County Department of Public Works

PROJECT: Barstow Sanitary Landfill Phase 1C Expansion Project

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in the California Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a permit requirement from the attached table does not relieve the Permittee of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEE

Mitigation measures must be implemented within the time periods indicated in the table that appears below. Permittee has the primary responsibility for monitoring compliance with all mitigation measures and for reporting to CDFW on the progress in implementing those measures. These monitoring and reporting requirements are set forth in the ITP itself and are summarized at the front of the attached table.

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

CDFW may, at its sole discretion, verify compliance with any mitigation measure or independently assess the effectiveness of any mitigation measure.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Source, Implementation Schedule, Responsible Party, and Status/Date/Initials. The Mitigation Measure column summarizes the mitigation requirements of the ITP. The Source column identifies the ITP condition that sets forth the mitigation measure. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure. The Status/Date/Initials column shall be completed by the Permittee during preparation of each Status Report and the Final Mitigation Report, and must identify the implementation status of each mitigation measure, the date that status was determined, and the initials of the person determining the status.

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Authorized Biologist(s) and Biological Monitor(s) using the Biologist Resume Form for desert tortoise (Attachment 2) and western burrowing owl (Attachment 3) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Authorized Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, and handling of the Covered Species. The Authorized Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Authorized Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Authorized Biologist(s) or Biological Monitor(s) must be changed.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Permittee shall identify a veterinarian(s) for the Covered Species. Permittee shall obtain written confirmation from the veterinarian(s) that they will accept injured Covered Species for treatment. Written confirmation shall also contain the veterinarian's contact information and facility location. Permittee shall provide a copy to CDFW before starting Covered Activities. The contact information and location of the facility shall be on site for the Authorized Biologist(s) during Covered Activities.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
4	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Authorized Biologist(s) and/or Biological Monitor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 5.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	The Authorized Biologist(s) and/or Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project Area upon request by CDFW.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing to minimize the disturbance of Covered Species' habitat adjacent to the Project Area. The fencing shall include desert tortoise exclusionary features. Shade structures shall be installed along the outer fence perimeter placed at regular intervals 1,000 feet apart to provide shelter for desert tortoises. All gates will be installed with desert tortoise exclusionary fencing affixed along the bottom portion of the gate structure. Permittee shall restrict all Covered Activities to occur only within the fenced Project Area. Permittee shall maintain all fencing until the completion of Covered Activities in the Project Area.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads within the Project Area. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.11	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
10	Permittee shall develop an Invasive Plant Management Plan (Plan) focused on controlling or eradicating existing invasive plants within the Project Area and preventing the introduction of new nonnative and invasive plants into the Project Area. The Plan shall include a list of plant species targeted for control or eradication, a description of the methods that will be used for control or eradication, a list of Best Management Practices to prevent the introduction and spread of invasive plant species into and out of the Project Area, monitoring requirement, success criteria, and a rapid response plan in the event that a new plant species invades the Project Area. A list of common invasive plant species including guidelines for preventing the establishment of invasive plants can be found on the California Invasive Plant Council Invasive Plant Inventory (Cal IPC Inventory) website. The Plan shall be implemented during Covered Activities and monitored for the time specified in the Plan. The Plan shall be submitted to CDFW for review and approval no later than 60 days prior to the commencement of Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	Permittee shall prepare a Raven Management Plan to minimize the potential to attract common ravens to the site. The Plan shall be submitted to CDFW for review and approval no later than 60 days prior to the commencement of Covered Activities. In addition, the Permittee shall provide funds to the Desert Managers Group (DMG) account established with the National Fish and Wildlife Foundation (NFWF) to contribute to a region-wide raven control plan to help address raven predation on desert tortoise. This contribution shall be used to address raven predation on a regional basis and shall be calculated as a one-time payment of \$105 per acre of Project disturbance. Based on this calculation the Permittee shall provide a one-time payment at \$105.00/acre for 127 acres at \$13,335 to the REAT account established with NFWF's Raven Management Plan fund. A minimum of 15 days prior to the start of Covered Activities these funds shall be provided to NFWF using appropriate deposit document and proof of paying this fee shall be provided to CDFW within one business day after the funds have been provided to NFWF.	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities no later than 60 days prior to the commencement of Covered Activities	Permittee	
12	Prior to installation of the desert tortoise exclusionary fence, surveys for Western burrowing owl and desert tortoise shall be completed along the fence line and within an appropriate buffer determined by the Authorized/Designated Biologist(s) to ensure no burrows are occupied by either desert tortoise or Western burrowing owl. Surveys shall occur during the desert tortoise active season (generally April to May and September to October). If desert tortoise or Western burrowing owl is present, Permittee shall relocate individuals found along the fence line per the CDFW approved translocation plans in Condition of Approval 7.11 and Condition of Approval 7.20, respectively. Individuals found within the buffer shall be flagged for avoidance as per the CDFW approved translocation plans in Condition of Approval 7.11 and/or Condition of Approval 7.20. If the exclusionary fence is installed during desert tortoise inactive season a fencing plan shall be submitted to CDFW for review and approval at least 30 calendar days prior to commencing installation of the desert tortoise exclusionary fence. The fencing plan shall include gaps in the fence to allow desert tortoise to enter and exit the Project Area. Gaps shall be closed during the subsequent desert tortoise active season and following gap closure, surveys shall be performed according to Condition of Approval 7.10 and 7.22.	ITP Condition # 7.9	Prior to installation of the desert tortoise exclusionary fence	Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	The Authorized Biologist(s) approved under this ITP shall conduct pre-construction clearance surveys for desert tortoise during the active season (generally April to May and September to October) using the methods described in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual (hereinafter referred to as USFWS Field Manual). The Biological Monitor(s) may assist the Authorized Biologist(s) in conducting pre-construction surveys. In addition to the guidance provided in the USFWS Field Manual, CDFW provides the following requirement(s): 7.10.1. Pre-construction clearance surveys shall be completed within the fenced areas containing desert tortoise exclusionary fencing using perpendicular survey routes. Pre-construction clearance surveys cannot be combined with other clearance surveys conducted for other species while using the same personnel. Covered Activities cannot start until two negative results from consecutive (proceeding) surveys using perpendicular survey routes for the Covered Species are documented. A negative result means no new live desert tortoise is detected. 7.10.2. These surveys shall cover 100 percent of the area within desert tortoise exclusionary fencing and a 50-foot buffer zone around the Project Area. The Authorized Biologist(s) and/or Biological Monitor(s) shall record all potential Covered Species burrows, Covered Species sign, and live Covered Species within the pre-construction clearance survey area, using global positioning system (GPS) technology. The Authorized Biologist(s) and/or Biological Monitor(s) shall provide the results of the preconstruction clearance survey (including all information of the USFWS Protocol data sheet) to CDFW within 30 calendar days of completing the surveys. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.	ITP Condition # 7.10	Before commencing ground- or vegetation-disturbing activities no later than 30 days prior to the commencement of Covered Activities	Permittee and Authorized Biologist(s)	

14	Regardless of the number of desert tortoise estimated to be moved out of harm's way, Permittee shall submit to CDFW for review and approval a Desert Tortoise Translocation Plan prepared by the Authorized Biologist(s) at least 30 calendar days prior to start of Covered Activities. Covered Activities are not authorized to start until the Desert Tortoise Translocation Plan is approved in writing by CDFW. The Desert Tortoise Translocation Plan shall follow the most current guidelines provided by USFWS and CDFW regarding Covered Species translocation. Where guidance differs between USFWS and CDFW, Permittee shall coordinate with CDFW, to determine an approach forward. The list of items below are the most common examples of the differences between CDFW and USFWS guidelines. These shall be included in the Desert Tortoise Translocation Plan along with the most recent USFWS translocation guidelines: • Translocated tortoises are tortoises removed from the Project Area, are disease tested, and have a radio transmitter attached. • The Authorized Biologist(s) shall determine when the creation of artificial burrows is needed. • Ambient air temperature guidelines shall be followed as specifies in Condition of Approval 7.13 of this ITP. • Tortoises <100 millimeters (mm) midline carapace length (MCL) shall be released immediately without being held, transmitted, or blood drawn for disease testing as long as the temperature requirements of Condition of Approval 7.13 of this ITP below are met. • Tortoises >100 mm MCL that are translocated from the Project Area shall be transmitted and monitored for 5 years post translocation or as otherwise approved by CDFW in writing. • All tortoise >100 mm MCL found during pre-construction clearance surveys, which are to be translocated from the Project Area, shall be tested for disease as follows during the active season, unless approved in writing by CDFW. Blood draw samples for <i>Mycoplasma agassizii</i> and <i>Mycoplasma testudineum</i> shall determine if a tortoise is negative or positive for disease. A combination of results from blood testing and visual inspection will be used to determine the health of a tortoise. Blood draw samples will be sent to: Dr. Mary Brown, University of Florida, Department of Infectious Diseases and Immunology, 2015 SW 16th Ave., Room V2-234, Gainesville, Florida 32608, or other facility approved by CDFW. CDFW uses enzyme-linked immune assay (ELISA) test results to determine if a tortoise is positive for disease. The ELISA tests will be used to test for exposure to herpes virus (<i>Mycoplasma agassizii</i> and <i>Mycoplasma testudineum</i>). To determine results of blood testing, use the most current guidelines provided by the University of Florida Mycoplasma Laboratory Department of Infectious Diseases and Pathology. The University of Florida Mycoplasma Laboratory Department of Infectious Diseases & Pathology 2013 criteria for classifying <i>Mycoplasma agassizii</i> and <i>Mycoplasma testudineum</i> is: (1) a titer <32 is negative, (2) a titer > 64 is positive, and (3) a titer of 32 is suspect (retesting in 6 weeks) or most current guidelines. All sample forms shall come from the University of Florida's guidance. • If a tortoise > 100 mm MCL tests positive for disease, Permittee must contact CDFW immediately and tortoise shall be tested twice for disease during the active season (once in the spring after May 15 to May 31 and once in the fall). All actions regarding	ITP Condition # 7.11	Before commencing ground- or vegetation-disturbing activities no later than 30 days prior to the commencement of Covered Activities	Permittee and Authorized Biologist(s)	
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	the handling, transport, and quarantine of infected tortoise must be approved in writing by CDFW on a case-by-case basis. Following consultation with disease investigation laboratory, testing, and treatment, Permittee can translocate a disease positive tortoise with no outward sign of disease to a recipient site that has other disease positive individuals with prior written approval from CDFW. A recipient site that accepts disease positive tortoise shall be approved by CDFW in the Desert Tortoise Translocation Plan prior to translocation. • If a tortoise >100 mm MCL tests negative for disease, it can be translocated in accordance with the approved Desert Tortoise Translocation Plan, with written approval from CDFW. • The Desert Tortoise Translocation Plan shall include a requirement that all translocated tortoises regardless of size be included in the translocation numbers and all reports. • The Desert Tortoise Translocation Plan shall propose one recipient site. Recipient sites shall have the vegetative structure to support all life stages of desert tortoises. • In addition to the USFWS Field Manual guidelines, the Desert Tortoise Translocation Plan shall also include: (1) identifying the known threats or potential causes of population decline for desert tortoise, (2) how potential threats have been or would be addressed for translocated individuals, (3) complete physical examination and health assessments for translocated individuals, (4) approximate age and sex of translocated individuals, and (5) vegetation classification and quality of habitat of the recipient site. The Desert Tortoise Translocation Plan shall detail which characteristics are to be used to decide if a recipient site is similar enough to a Project Area including burrow aspects, and recovery needs such as habitat restoration and/or predator control. • All tortoises >100 mm MCL removed off the Project Area shall be transmitted and monitored for 5 years post translocation or at the expiration of this ITP, whichever occurs first. • Recipient sites shall be a minimum of 4 miles (6.5 kilometers) away from highway/road right-of-way that does not include Covered Species fencing. • Creation of artificial burrows, as well as translocation of tortoises and eggs shall only occur on land(s), when written authorization has been obtained from the landowner prior to the start of Covered Activities. The written permission from the landowner shall be included in the Desert Tortoise Translocation Plan and the Desert Tortoise Translocation Plan shall not be approved by CDFW until authorization is provided in writing. If creation of artificial burrows or translocation of tortoise or eggs is proposed to take place on private lands then in addition to written approval required above, some form of protection for the land such as a conservation easement shall be in place prior to translocation occurring. • "Trifectant" and "Rescue Ready to Use One Step Disinfectant Cleaner" shall be the only products authorized to be used during the translocation process. These products are not authorized to be applied using a spray bottle or other spray methods. Cleaning and Disinfection Protocol shall include the following: Remove all grossly visible debris.				
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	○ Wash the area or item with water and mild detergent. ○ Thoroughly rinse the cleared area to remove any detergent residue. ○ Allow the area to dry completely. ○ Apply disinfectant mixture. ○ Allow the full disinfectant product recommended contact time. ○ Thoroughly rinse away any residual disinfectant and allow the area/item to air dry.				
15	The Authorized Biologist(s) shall maintain a record of all Covered Species handled. This information shall include: (a) the locations (narrative and maps) and dates of observation, including whether the individual(s) was found above ground or in a burrow; (b) ambient temperature when handled and released; (c) general condition and health of the individual(s), including injuries, state of healing, and whether the individual(s) voided its bladders; (d) identified diagnostic markings (i.e., identification numbers or marked marginal scutes); (e) location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (f) whether any eggs were discovered and relocated; (g) digital photographs of any Covered Species and eggs handled; and (h) results of ongoing monitoring. The Designated Representative(s) shall provide CDFW with the information listed above submitted in the reports following Condition of Approval 6.4, 6.5 and 6.7.	ITP Condition # 7.12	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Authorized Biologist(s)	
16	During all handling procedures, Covered Species shall be treated in a manner to ensure that they do not overheat or exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Covered Species shall be kept shaded at all times until it is safe to release them. For the purposes of this permit, ambient air temperature shall be measured in the shade, protected from wind, at a height of five centimeters above the ground surface. For all Covered Activities no Covered Species shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95° Fahrenheit (F) (35° Celsius (C)). No Covered Species shall be captured if the ambient air temperature is anticipated to exceed 95° F (35° C) before handling or processing can be completed. If the ambient air temperature exceeds 95° F (35° C) during handling or processing, Covered Species shall be kept shaded in an environment that does not exceed 95° F (35° C), and not released until ambient air temperature declines to below 95°F (35°C). Covered Species moved during the less active season (June 1 to August 31 and November 1 to March 31) shall be monitored by the Authorized Biologist(s) for at least two days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured Covered Species overnight and move them the following morning within these temperature constraints.	ITP Condition # 7.13	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17	If a Covered Species voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the animal(s). The Authorized Biologist(s) shall rehydrate the Covered Species immediately at the location where the animal(s) was or were captured, or the location where the animal(s) is or will be released. The Authorized Biologist(s) shall rehydrate the Covered Species by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the Covered Species. The Authorized Biologist(s) shall rehydrate each Covered Species individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration.	ITP Condition # 7.14	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Authorized Biologist(s)	
18	Only Authorized Biologist(s) and Biological Monitor(s) under Condition of Approval 5.2 are authorized to conduct burrow excavation. The Biological Monitor(s) may only excavate burrows by hand under the direct supervision of the Authorized Biologist(s). Excavation of burrows shall follow the methods described the USFWS Field Manual.	ITP Condition # 7.15	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Authorized Biologist(s)	
19	Permittee shall expand the existing desert tortoise exclusionary fencing and install permanent exclusionary fencing to encompass the outer perimeter of the Project Area (see Figure 3). The Authorized Biologist(s) shall inspect the existing exclusionary fencing for Covered Species prior to the removal of the existing fencing. The Biological Monitor(s) may assist with fence inspections prior to removal. The exclusionary fencing shall include the installation of shade structures along the outer fence perimeter placed at regular intervals. All gates shall be installed with desert tortoise exclusion fencing affixed along the bottom portion of the gate structure. The exclusionary fencing shall be constructed according to USFWS Field Manual (see Attachment 4). The Authorized Biologist(s) shall oversee the installation of the exclusionary fencing and inspect the fencing monthly thereafter and immediately following significant rain events. The Biological Monitor(s) may provide assistance with fence inspections. If repairs are needed to the fencing, temporary repairs shall occur immediately (within 24 hours) upon detection and permanent repairs shall occur no later than 7 days of observing the damage.	ITP Condition # 7.16	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee and Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	The Permittee shall submit a Western Burrowing Owl Mortality Reduction Plan prepared by the Authorized Biologist(s) to CDFW at least 30 days prior to beginning Covered Activities. Burrow exclusion, burrow excavation, burrow collapsing, artificial burrow construction, and other relocation activities shall not proceed until this plan has been approved in writing by CDFW. The Western Burrowing Owl Mortality Reduction Plan shall include, but not be limited to: detailed description of survey methodology, including the time and date of survey(s), survey area with buffer, and statuses of previously identified suitable burrows; detailed burrow exclusion and excavation methods; methods for monitoring Covered Species pre- and post-exclusion; proposed avoidance buffers based on Covered Activities and disturbance level; proposed Covered Activities that may occur within a buffer reduction request; identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured Covered Species or care for at-risk Covered Species, Covered Species eggs, and/or Covered Species chicks per Condition of Approval 5.4; and procedure for collection and storage of Covered Species carcasses. The plan should also include a discussion and map of potential artificial burrow replacement locations; description of the replacement burrow design and dimensions (e.g., depth and width of burrow, width of burrow entrance, orientation of burrow entrance, number and placement of entrances to natal burrows); artificial burrow installation methods; and long-term artificial burrow protection and maintenance methods; and timing of artificial burrow installation/construction. Only CDFW-approved Authorized Biologist(s) shall handle and transport injured Covered Species for treatment or impacted Covered Species eggs for salvage. All other Covered Species handling is prohibited. Once the Western Burrowing Owl Mortality Reduction Plan is approved in writing by CDFW, it shall be used for the duration of this ITP unless updated to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Every five years following execution of this ITP, the Western Burrowing Owl Mortality Reduction Plan shall be reviewed by the Permittee and CDFW. Permittee shall revise the Western Burrowing Owl Mortality Reduction Plan based on the best available science, and as CDFW deems appropriate. Any Permittee proposed changes to the Burrowing Owl Mortality Reduction Plan shall be submitted, in writing, to CDFW and approved in writing prior to the implementation of any proposed modifications.	ITP Condition # 7.20	Before commencing ground- or vegetation-disturbing activities at least 30 days prior to beginning Covered Activities	Permittee/ Authorized Biologist(s)	
21	Permittee shall replace each known Covered Species burrow (as defined above) that cannot be avoided within the Project Area with an artificial burrow to compensate for the loss of important shelter used by Covered Species for protection, reproduction, nesting, and escape from predators. Permittee shall submit to CDFW for review and approval the proposed location where burrow replacements will be constructed. Permittee shall obtain all necessary landowner approvals and authorizations prior to the construction of artificial burrows.	ITP Condition # 7.21	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	The Authorized Biologist(s) shall conduct pre-construction surveys in the entire Project Area to identify, flag, and map all potential, known, and/or nesting Covered Species burrows (as defined above) within 30 calendar days prior to beginning Covered Activities. The Biological Monitor(s) may assist the Authorized Biologist(s) with conducting pre-construction surveys. Surveys shall include the Project Area and 500 feet (where feasible) beyond the limits of the Project Area, unless otherwise approved in advance and in writing by CDFW. Surveys shall be conducted as detailed within Appendix D of the Staff Report on Burrowing Owl Mitigation (CDFG 2012). If the Authorized Biologist(s) identifies any potential, known, or nesting Covered Species burrow(s), the burrow(s) shall be monitored following Conditions of Approval 7.25 and 7.26, unless avoided per Condition of Approval 7.24. If the Authorized Biologist(s) identifies any potential, known, or nesting Covered Species burrows, no-disturbance buffer zones shall be established per Condition of Approval 7.24. Permittee shall provide the pre-construction survey results with a Burrow Complex Map (Condition of Approval 7.23) in a written report to CDFW's Regional Representative at least five calendar days prior to the beginning of Covered Activities. The report shall include, but not be limited to, methodology, survey date, and apparent status of each burrow (potential, known, or nesting).	ITP Condition # 7.22	Before commencing ground- or vegetation-disturbing activities within 30 calendar days prior to beginning Covered Activities	Authorized Biologist(s)	
23	The Authorized Biologist(s) shall provide a KMZ map to CDFW of all burrows found during the pre-construction surveys performed per Condition of Approval 7.22. The map shall be at a scale of 1:24,000 or finer to show details and shall show locations of all Covered Species sightings and labeled if sightings were known burrows, nesting burrows, potential burrows, occupied burrows, satellite burrows, areas of concentrated burrows, and Covered Species sign. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the Project Area and a title, north arrow, scale bar, and legend. If a lapse in Project-related work of 14 calendar days or longer occurs within areas of suitable habitat for Covered Species, Permittee shall contact the CDFW Regional Representative by email and may be required to provide an updated Burrow Complex Map before work may be reinitiated.	ITP Condition # 7.23	Before commencing ground- or vegetation-disturbing activities	Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24	For any potential Covered Species burrows that remain onsite, Permittee shall establish no-disturbance buffer zones as described in the Western Burrowing Owl Mortality Reduction Plan around known (including roosting and satellite burrows) and nesting Covered Species burrows according to the following guidelines: 7.24.1 If a known Covered Species burrow is discovered, Permittee shall establish a minimum no-disturbance buffer. A no-disturbance buffer as described in the Western Burrowing Owl Mortality Reduction Plan shall be established around known burrows. 7.24.2 If a nesting Covered Species burrow is discovered within or immediately adjacent to the Project Area, Permittee shall follow procedures outlined in the Western Burrowing Owl Mortality Reduction Plan. 7.24.3 If Covered Species burrows cannot be avoided as described above, Permittee shall implement Conditions of Approval 7.20, 7.25, and 7.26 as appropriate. Covered Species burrows that cannot be avoided shall be replaced per Condition of Approval 7.21. If Covered Species individuals are visibly stressed by the Covered Activities or workers in the vicinity after these no-disturbance buffers are established, all work in the vicinity shall immediately cease and increased no-disturbance buffers shall be determined by the Authorized Biologist(s) based on their behavioral observations of the affected Covered Species. The Authorized Biologist(s) shall report to CDFW any buffers that were increased due to behavioral observations for evaluation and determination of buffer effectiveness. Permittee shall change the method of marking the no disturbance buffer if corvids, raptors, or other predators are observed perching on marking materials. The Permittee shall limit the materials necessary to mark the no-disturbance buffer to that which is necessary for identification of the site. The Permittee shall delineate the no-disturbance buffer with different materials than those used to delineate the Project Area. The Permittee shall remove and properly dispose of all materials used for delineation immediately upon completion of the Project The buffers prescribed above shall not be reduced or otherwise modified below the minimum distance as described in the Western Burrowing Owl Mortality Reduction Plan.	ITP Condition # 7.24	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee and Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	The Authorized Biologist(s) or the Biological Monitor(s) under direct supervision of the Authorized Biologist(s), shall excavate known or potential Covered Species burrows that exhibit signs or current or past western burrowing owl use or characteristics suggestive of a western burrowing owl burrow (including burrows in natural substrate and in/under man-made structures) that cannot be avoided per the Condition of Approval 7.24 within the Project Area. Exclusion shall occur outside the breeding season unless otherwise approved by CDFW in advance in writing. Burrows to be destroyed shall be fully excavated, filled with dirt or soil, and compacted to ensure that Covered Species cannot reenter or use the burrow during the period that Covered Activities occur in the Project Area. An established no-disturbance buffer around a burrow may be removed once the burrow is collapsed and the Covered Species(s) is/are no longer using the burrow. 7.25.1 Potential Covered Species burrows (any subterranean hole eight centimeters or larger for which no evidence is present to conclude that the burrow is being used or has been used by a Covered Species) without any signs of Covered Species or characteristics suggesting it is a Covered Species burrow may be excavated immediately without prior camera monitoring by the Authorized Biologist(s) or the Biological Monitor(s) under direct supervision of the Authorized Biologist(s). 7.25.2 Excavation of known Covered Species burrows shall only occur after the Authorized Biologist(s) has determined that the Covered Species is not currently present after four consecutive 24-hour periods of monitoring with infrared cameras. Burrows shall be carefully hand excavated with hand tools, or by mechanical means if a specific methodology is approved in writing by CDFW, until it is certain no individuals of Covered Species are inside. If during the excavation process, evidence of current use by the Covered Species is discovered, then burrow excavation shall cease immediately, and camera monitoring as described above shall be conducted/resumed. CDFW shall be notified immediately. 7.25.3 Covered Species burrows used for nesting shall not be excavated until biological and camera monitoring confirm that the chicks have fledged, are foraging independently, and are no longer dependent on the nest, and then only after written concurrence from CDFW.	ITP Condition # 7.25	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Authorized Biologist(s) and/or Biological Monitor(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26	If an unoccupied Covered Species burrow can be avoided by construction and does not need to be collapsed but is within a distance of construction to cause significant stress to the Covered Species, the Authorized Biologist(s) shall block rather than destroy the burrow. The Biological Monitor(s) may assist the Authorized Biologist(s) with blocking of burrows. The blocked burrow will be unblocked and made available for use after construction is complete. Burrow blockage shall be done in a manner that prevents burrowing animals from digging back into the burrow. All blocked burrows shall be monitored by the Authorized Biologist(s) or Biological Monitor(s) at least once a week to ensure that the exclusionary material is still intact. If Covered Species gains access to the burrow, the Authorized Biologist(s), Biological Monitor(s), or Designated Representative shall contact CDFW immediately and obtain written guidance regarding how to proceed. All blocked burrows shall be unblocked within 48 hours of completion of Covered Activities within the prescribed buffer distance.	ITP Condition # 7.26	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee and Authorized Biologist(s)	
27	CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result from implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the protected acreage required to provide for adequate compensation. To meet this requirement, the Permittee shall either purchase 635 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 8.2 below OR shall provide for both the permanent protection and management of 635 acres of Habitat Management (HM) lands pursuant to Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below. Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee and Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows: 8.1.1 Land acquisition costs for HM lands identified in Condition of Approval 8.3 below, estimated at \$5,000/acre for 635 acres: \$3,175,000.00. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements; 8.1.2 All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.3.1 and 8.3.2 below: \$17,440.00; 8.1.3 Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.3.6 below, estimated at \$1,270,000.00; including Interim management period funding as described in Condition of Approval 8.3.7 below, estimated at \$381,000.00; 8.1.5 Long-term management funding as described in Condition of Approval 8.4 below, estimated at \$3,100/acre for 635 acres: \$1,968,500. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management. 8.1.6 Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.5, estimated at \$6,000.00. 8.1.7 All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work \$75,000.00.	ITP Condition #8.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
29	If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 635 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.	ITP Condition #8.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.	ITP Condition #8.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
31	If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.	ITP Condition #8.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
32	Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition #8.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
33	Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition #8.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.	ITP Condition #8.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
35	Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see optional management plan template at https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition #8.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
36	Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition #8.3.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended. After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.	ITP Condition #8.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
38	The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).	ITP Condition #8.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
39	After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager. 8.4.2.1 Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees. 8.4.2.2 Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: 8.4.2.2.1 A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. 8.4.2.2.2 The endowment shall be established assuming spending will not occur for the first three years after full funding. 8.4.2.2.3 For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.	ITP Condition #8.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
40	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.	ITP Condition #8.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended. Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds. Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.	ITP Condition #8.4.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
42	Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition #8.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
43	The Security shall be in the amount of \$6,892,940.00 or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
44	The Security shall be in the form of an irrevocable letter of credit (see Attachment 5) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first.	ITP Condition #9.3	Before commencing ground- or vegetation-disturbing activities or within 30 days after the effective date of the ITP, whichever occurs first.	Permittee	
46	The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities or within 30 days after the effective date of the ITP, whichever occurs first.	Permittee	
47	Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.	ITP Condition #9.5	Before commencing ground- or vegetation-disturbing activities or within 30 days after the effective date of the ITP, whichever occurs first.	Permittee	
48	The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP.	ITP Condition #9.6	Before commencing ground- or vegetation-disturbing activities or within 30 days after the effective date of the ITP, whichever occurs first.	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by: Credit Purchase - Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits; and - Timely submission of all required reports. Habitat Management Land Acquisition (HMLA) - Written documentation of the acquisition of the HM lands; - Copies of all executed and recorded conservation easements; - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and - Timely submission of all required reports. Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.	ITP Condition #9.7	Before commencing ground- or vegetation-disturbing activities or within 30 days after the effective date of the ITP, whichever occurs first.	Permittee	
DURING CONSTRUCTION					
50	Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Authorized Biologist(s) and/or Biological Monitor(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 5.8	Entire Project	Permittee	
51	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 5.9	Entire Project	Permittee	
52	Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads within the Project Area. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 5.11	Entire Project	Permittee	
53	Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.	ITP Condition # 5.12	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 5.13	Entire Project	Permittee	
55	Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition # 5.14	Entire Project	Permittee	
56	The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.	ITP Condition # 6.2	Entire Project	Permittee	
57	The Authorized Biologist(s) shall be on-site daily until all Covered Species surveys, translocation, installation of exclusionary fencing, and clearing, grubbing, and grading occurs. The Biological Monitor(s) may assist the Authorized Biologist(s) with daily on-site compliance monitoring. The Authorized Biologist(s) and/or Biological Monitor(s) shall then only be present monthly to conduct compliance inspections, including during periods of inactivity until Covered Activities are completed. The Authorized Biologist(s) shall conduct compliance inspections to: (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(s) shall prepare daily written observation and inspection records when on-site summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.	ITP Condition # 6.3	On-site daily until all Covered Species surveys, translocation, installation of exclusionary fencing, and clearing, grubbing, and grading occurs.	Permittee	
58	The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(s) shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Emily Leon (Emily.Leon@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov . CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 6.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
59	Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 6.5	Entire Project until CDFW accepts the Final Mitigation Report identified below.	Permittee	
60	The Authorized Biologist(s) and/or Biological Monitor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Authorized Biologist(s) and/or Biological Monitor(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 6.6	Entire Project	Authorized Biologist(s)	
61	Permittee shall immediately notify the Authorized Biologist(s) and/or Biological Monitor if a Covered Species is taken or injured by a Covered Activity, if a Covered Species is otherwise found dead or injured within the vicinity of the Project Area, or if eggs or nestlings are found in a nest that has been abandoned as a result of Covered Activities within the vicinity of the Project Area. The Authorized Biologist(s), Biological Monitor(s), or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the common and scientific name, the date and time of the finding or incident, observer name and contact information, georeferenced location of the animal or carcass (County, GPS location, and GPS datum), sex (if known), life stage/age class (if known), a photograph (if possible), explanation as to cause of take or injury, and any other pertinent information, such as ITP number. The Authorized Biologist(s) or Designated Representative shall provide CDFW weekly updates on the status of the rehabilitation facility's treatment of the individual(s).	ITP Condition # 6.8	Entire Project	Permittee	
62	Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). All herbicides shall be applied in accordance with regulations set by DPR. All herbicides shall be used according to labeled instructions. Labeled instructions for the herbicide used shall be made available to CDFW upon request. No herbicide application shall occur when winds are greater than five miles per hour.	ITP Condition # 7.2	Entire Project	Permittee	
63	Permittee shall not use rodenticides and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Area without prior written permission from CDFW.	ITP Condition # 7.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
64	The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect any pipes, culverts, or similar structures with a diameter greater than 3 inches for Covered Species individuals and eggs before the material is moved, buried, or capped. The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect all open holes and trenches that may act as pitfall traps within Covered Species habitat at a minimum of twice a day and just prior to backfilling until all Covered Species surveys, translocation, installation of exclusionary fencing, and clearing, grubbing, and grading occurs. At the end of each workday during construction, Permittee shall place an escape ramp at each end of trenches, excluding the borrow area on Figure 2 to allow any animals that may have become trapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees. If any worker discovers that Covered Species have become trapped, they shall halt Covered Activities and notify the Biological Monitor(s) and/or Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) and/or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or a Authorized Biologist(s) approved under Condition of Approval 5.2 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.	ITP Condition # 7.4	Entire Project	Authorized Biologist(s) and/or Biological Monitor(s)	
65	To minimize the risk of ensnaring and strangling Covered Species, Permittee shall not use erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, coconut (coir) fiber, or other products without welded weaves. Permittee shall use erosion control materials composed entirely of natural-fiber biodegradable materials. Permittee shall not use plastic "photodegradable" erosion control materials.	ITP Condition # 7.5	Entire Project	Permittee	
66	If a Covered Species is injured or killed as a result of Project-related activities or nestling(s) or egg(s) are found in a nest and/or burrow abandoned as a result of Covered Activities within the vicinity of the Project Area, the Authorized Biologist(s) shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility approved per Condition of Approval 5.4. Permittee shall identify the facility before starting Covered Activities. If nestling(s) or egg(s) are abandoned, the Authorized Biologist(s) shall recover the nestling(s) or egg(s) and immediately take them to a CDFW-approved wildlife rehabilitation center or veterinary facility approved per Condition of Approval 5.4. Permittee shall bear any costs associated with the care, treatment, and recovery of any injured Covered Species adults, abandoned nestling(s) or egg(s), and release and hacking (controlled release of captive reared young). Release and/or hacking location(s) shall be approved by CDFW prior to release of the Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 6.8. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 7.6	Entire Project	Permittee/ Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
67	If a Covered Species is observed during Covered Activities, all work within 300 feet of the Covered Species shall immediately stop and the observation shall be immediately reported to the Authorized Biologist(s) and/or Biological Monitor(s). Covered Activities shall not resume until the Authorized Biologist(s) and/or Biological Monitor(s) has verified the Covered Species has left the Project Area or an Authorized Biologist(s) approved under Condition of Approval 5.2 of this ITP relocates the Covered Species as described in this ITP and Desert Tortoise Translocation Plan or the Western Burrowing Owl Mortality Reduction Plan. The Designated Representative shall notify CDFW of any Covered Species observations within the Project Area. Notification shall occur within 24 hours. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Authorized Biologist(s) that relocated the individual, pictures, map and shapefiles with the location (including GPS coordinates) where the individual was moved as specified in the Desert Tortoise Translocation Plan (Condition of Approval 7.11) or the Western Burrowing Owl Mortality Reduction Plan (Condition of Approval 7.20).	ITP Condition # 7.7	Entire Project	Authorized Biologist(s) and/or Biological Monitor(s)	
68	The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect the desert tortoise fencing monthly and within 24 hours during major rainfall events to ensure Covered Species is prohibited from entering the Project Area. If the fence is compromised, repairs shall be completed immediately (within 24 hours), and the Authorized Biologist(s) shall verify that desert tortoise has not entered the Project Area. If desert tortoise is confirmed to have entered the Project Area, the Desert Tortoise Translocation Plan in Condition of Approval 7.11 shall be implemented.	ITP Condition # 7.17	Entire Project	Authorized Biologist(s) and/or Biological Monitor(s)	
69	Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Authorized Biologist(s) or Biological Monitor(s) and wait for the Covered Species to be unimpeded to a safe location or the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 7.11 before moving vehicles and equipment.	ITP Condition # 7.18	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Authorized Biologist(s) and/or Biological Monitor(s)	
70	Permittee shall confine all Project-related parking, storage areas, lay down sites, equipment storage, and any other surface-disturbing activities to the Project Area and/or previously disturbed areas within the existing landfill. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the Project Area. If a Covered Species is found within a staging or parking area the worker shall immediately contact the Authorized Biologist(s) and/or Biological Monitor(s) approved in Condition of Approval 5.2 of this ITP. An Authorized Biologist(s) approved in Condition of Approval 5.2 of this ITP shall relocate the Covered Species in accordance with Condition of Approval 7.11 of this ITP and the Desert Tortoise Translocation Plan.	ITP Condition # 7.19	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee and Authorized Biologist(s)	
71	Throughout construction and the lifetime operations of the Project, Permittee shall eliminate all nonessential lighting throughout the Project Area and avoid or limit the use of artificial light at night between the hours of dusk and dawn when many wildlife species are most active. Permittee shall ensure that all lighting for the Project is fully shielded, cast downward and directed away from surrounding open-space, burrows or Covered Species habitat, and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding areas or upward into the night sky (see the International Dark-Sky Association standards at http://darksky.org/). Permittee shall ensure use of lighting with a correlated color temperature of 3,000 Kelvins or less.	ITP Condition # 7.27	Entire Project	Permittee and Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
POST-CONSTRUCTION					
72	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction materials and construction related refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 5.15	Post-construction	Permittee	
73	No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Representative, Authorized Biologist(s) and/or Biological Monitor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species and (8) any other pertinent information.	ITP Condition # 6.7	Post-construction and no later than 45 days after completion of mitigation	Permittee	

Project Name:
LSA Agreement/ITP Number(s):



Department of Fish and Wildlife

CDFW Region 6 Desert Tortoise Biologist Qualification Form

This form requests information about the qualifications of the Desert Tortoise Authorized Biologist and Biological Monitor specified in California Endangered Species Act Incidental Take Permits (ITP) and Lake or Streambed Alteration (LSA) Agreements issued by California Department of Fish and Wildlife (CDFW).

While use of this form is not mandatory, CDFW strongly recommends completing this form as it will ensure the receipt of adequate information and expedite CDFW review of qualifications.

Requesting Approval for: Authorized Biologist (AB) or Biological Monitor (BM) (skills needed are determined by the conditions in the ITP and measures in the LSA)

Date Submitted: _____

Requesting Approval as: ☐ Desert Tortoise AB ☐ Desert Tortoise BM

SECTION I. BIOLOGIST NAME AND CONTACT INFORMATION:

Name:		Title:	
Company Name & Address:		Phone:	
		Email:	

SECTION II. RELEVANT STATE OR FEDERAL WILDLIFE PERMITS CURRENTLY HOLD, OR HAVE PREVIOUSLY HELD OR WORKED UNDER (Attach A Copy of the Permit and Any Amendments):

Species	State Permit Number	Federal Permit Number	Dates From/To	Permit Holder

SECTION III. EDUCATION:

College/University & Degree Type Related to Natural Resources or Science/Graduation Date:	
College/University & Degree Type Related to Natural Resources or Science/Graduation Date:	
College/University & Degree Type Related to Natural Resources or Science/Graduation Date:	

Project Name:				
LSA Agreement/ITP Number(s):				
Name/Type of Training	Certification Received (Provide Copy)	Dates (From/To) and Hours	Location	Instructor/Sponsor

SECTION V. ITP/LSA REQUIREMENTS (Copy and paste measure(s) from LSA and/or ITP that describe the Authorized Biologist/Biological Monitors necessary qualifications that require CDFW review and approval)

Relevant LSA Agreement Measures or ITP Conditions:	
Relevant LSA Agreement Measures or ITP Conditions:	
Relevant LSA Agreement Measures or ITP Conditions:	
Relevant LSA Agreement Measures or ITP Conditions:	

SECTION VI. SPECIFIC DESERT TORTOISE FIELD EXPERIENCE

Number of <u>hours</u> conducting desert tortoise-related activities.	
How many worker education programs have you presented?	
How many projects/hours have you been on-site monitoring project activities for compliance and to prevent incidental take of desert tortoise?	
Number of <u>miles walked</u> conducting protocol level presence/absence surveys and clearance surveys.	Presence/Absence Surveys: Clearance Surveys:
Number of wild, free-ranging desert tortoises you encountered during <u>protocol level surveys</u> .	< 100 mm carapace length: ≥ 100 mm carapace length:
Check, one for each size, the number of wild, free-ranging desert tortoises you personally <u>handled under direct supervision of an AB</u> .	<100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ ≥100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
Check, one for each size, the number of wild, free-ranging desert tortoises you have personally <u>handled, under no supervision of an AB</u> .	<100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ ≥100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐

Project Name:	
LSA Agreement/ITP Number(s):	
Check, one for each size, the number of transmitters or other devices (specify) you have personally <u>attached</u> to wild, free-ranging desert tortoises.	<100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ ≥100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
Check, one for each size, the number of transmitters or other devices (specify) you personally <u>removed</u> from wild, free-ranging desert tortoises.	<100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ ≥100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
Check, one for each size, the number of <u>blood samples</u> that you have personally collected from wild, free-ranging desert tortoises, under direct supervision of an AB.	<100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ ≥100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
Check, one for each size, the number of <u>blood samples</u> that you have personally collected from wild, free-ranging desert tortoises, under no supervision.	<100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ ≥100 mm: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
Check how many desert tortoise burrows you have excavated, under direct supervision of an AB.	Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
Check how many desert tortoise burrows you have excavated, under no supervision.	Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
Check how many desert tortoise burrows you have collected and reburied desert tortoise eggs, under direct supervision of an AB. What month(s) did you find and rebury the eggs?	Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ Month:
Check how many desert tortoise burrows you have collected and reburied desert tortoise eggs, under no supervision. What month(s) did you find and rebury the eggs?	Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ Month:
How many wild, free-ranging desert tortoises have you conducted health assessments on independently under the supervision of an AB and/or without supervision?	Disinfection/Sanitation Protocols: / Capture/Handling: / Physical Examination: / Biological Sample collection: / Hydration: / Other: /
Check, one for each category, how many biological samples have you prepared for shipment.	Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐

Project Name:	
LSA Agreement/ITP Number(s):	
Check, how many artificial burrow(s) for desert tortoise have you constructed and how many artificial burrow(s) have you supervised the construction?	Constructed: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ Supervised Construction: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
How many temporary holding pens have you constructed? How many temporary holding pens have you supervised the construction?	Constructed: Supervised Construction:
Check how many translocation plans you have implemented as an AB? Check how many translocation plans you have implemented as a BM? Check how many desert tortoise you have personally translocated without supervision as an AB and BM?	Translocation Plans Implemented as Authorized Biologist: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ Translocation Plans Implemented as Biological Monitor: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ Desert tortoise translocated as Authorized Biological: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐ Desert tortoise translocated as Biological Monitor: Zero ☐ <10 ☐ 10-25 ☐ 25-50 ☐ 50-75 ☐ 75-100 ☐ 100-150 ☐ >150 ☐
If you have trained an AB or BM please provide one contact for each. Include the person's name, project name, and ITP number.	Authorized Biologist Name/Project Name/ITP #: Biological Monitor Name/Project Name/ITP:

SECTION VII. REFERENCE INFORMATION

This section requests three references that can confirm your qualifications. Include co-workers/biologists that can verify your experience, but do not use supervisors¹ listed in Section VIII.

Name:	Employer/Position	Address/Location:	Phone:	Email:

¹ In order to provide a broader spectrum of references, supervisors both past and present should not be included.

SECTION VIII. DESERT TORTOISE FIELD EXPERIENCE

This section details desert tortoise experience from the most recent and relevant projects. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

A. Project 1:	
Project Name & Location (include County):	Worked on Project Start & End Dates:
ITP or Other Agency Permit Number:	Role(s):

Project Name:			
LSA Agreement/ITP Number(s):			
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
B. Project 2:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
C. Project 3:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
D. Project 4:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
E. Project 5:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			

Project Name:			
LSA Agreement/ITP Number(s):			
Skills Used:			
F. Project 6:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
G. Project 7:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
H. Project 8:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
I. Project 9:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			

Add Additional Pages for More Experience

**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

COVER SHEET

SUBMIT EACH RESUME AS A SEPARATE DOCUMENT

Name	Requested Role(s) ¹	Species/Resource(s)

This form requests information about the qualifications of the Qualified Biologist, Designated Biologist and Biological Monitor specified in California Endangered Species Act Incidental Take Permits (ITP) and Lake or Streambed Alteration (LSA) Agreements issued by California Department of Fish and Wildlife (CDFW). **Completing this form will ensure the receipt of adequate information and expedite CDFW review of qualifications.**

¹ Requested roles correspond to the biological staffing requirements indicated in the Lake and Streambed Alteration (LSA) Agreement or California Endangered Species Act Incidental Take Permit (ITP). Roles may include a "Qualified Biologist" or "Designated Biologist" with the necessary experience to survey for special status species, or a "Biological Monitor" with the necessary experience to monitor construction activities for special status species. An individual may request more than one role.



BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

SECTION I. NAME AND CONTACT INFORMATION

Name:

Title:

Company Name & Address:

Phone:

Email:

SECTION II. EDUCATION

College/University, Degree Name and Type Related to Natural Resource Science (e.g., BS in ecology), and Dates of Attendance:

Other Relevant Workshops & Training:

SECTION III. ROLE(S) AND PERMIT REQUIREMENTS

Requested Role(s):

Relevant LSA Agreement Measures or ITP Conditions²:

SECTION IV. SPECIES AND RESOURCE EXPERIENCE – SUMMARY

This section summarizes experience by special status species and other resource. Use one row for each species or other resource where surveys or special protections are required in the CESA ITP or LSA Agreement for which biologist approval is requested.³ If more space is needed, add rows to this table. Provide details in Section V.

Species or Resource	Number of Field Seasons & Hours, Life Stages Observed Provide project details in Section 5	Life History Knowledge Describe formal workshops & training with dates, or informal training details	CDFW SCP, MOU, & USFWS 10a1a Authorization Number & Authorized Activities This form does not fulfill SCP, MOU, & USFWS 10a1a reporting requirements
Insert Species or Resource 1	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 2	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 3	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:

² List all measures and conditions from the LSA Agreement or ITP requiring biological staff (i.e., Qualified Biologist, Designated Biologist, or Biological Monitor).

³ Often LSA Agreements/ITPs require surveys and other protections for multiple species and other resources. Include only those for which the biologist has experience and is requesting approval.

**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

SECTION V. SPECIES AND RESOURCE EXPERIENCE – DETAILS

This section details experience from the three most recent and relevant projects for each species and resource identified in Section IV. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

SPECIES OR RESOURCE 1:**Project 1 Name & Location:****Project Start Date:****Project End Date:****LSA Agreement, ITP, or Other Agency Permit Number:****Role(s)⁴:****Survey Type(s)⁵:****Construction Monitoring⁶****Days:****Activities:****Species Life Stages Observed & Handled, Number of Each****Company Name, Professional Reference Name, Phone, Email:****Life Stage:****Number Observed:****Number Handled:****Reported to****CNDDB⁷ (Y/N):****If not reported to CNDDB, why:****CDFW and Other Agency Email:****Project 2 Name & Location:****Project Start Date:****Project End Date:****LSA Agreement, ITP, or Other Agency Permit Number:****Role(s):****Survey Type(s):****Construction Monitoring:****Days:****Activities:****Species Life Stages Observed & Handled, Number of Each****Company Name, Professional Reference Name, Phone, Email:****Life Stage:****Number Observed:****Number Handled:****Reported to****CNDDB (Y/N):**

⁴ Insert the role as described in the associated LSA Agreement, ITP or other agency permit. If these permits were not issued, describe the role based on the duties, e.g., "lead biologist with handling authorization" or "biological monitor."

⁵ For example, pre-construction survey or description of the protocol or guideline followed.

⁶ Include the number of days and describe the types of activities monitored (e.g., heavy equipment operation).

⁷ CNDDB is the abbreviation for California Natural Diversity Database.



BIOLOGIST RESUME

Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	
Additional Information:	
SPECIES OR RESOURCE 2:	
Project 1 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	

**BIOLOGIST RESUME**

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

Project 2 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
SPECIES OR RESOURCE 3:	
Project 1 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	



BIOLOGIST RESUME

Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	
Project 2 Name & Location:	
Project Start Date:	End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring:	



BIOLOGIST RESUME

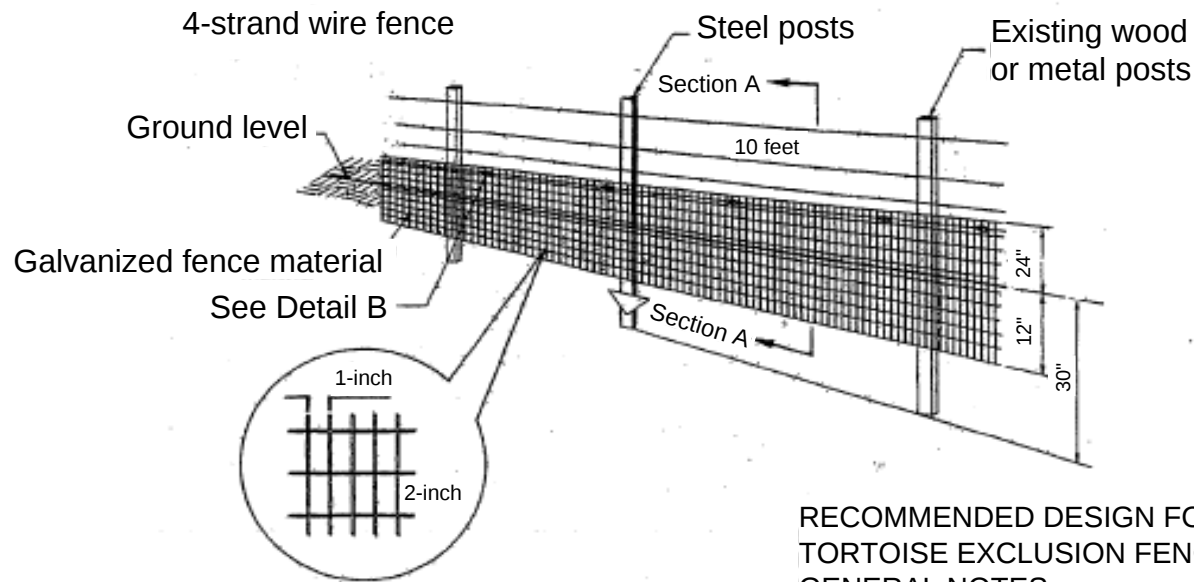
Project Name: [Click or tap here to enter text.](#)

LSA Agreement/ITP Number(s): [Click or tap here to enter text.](#)

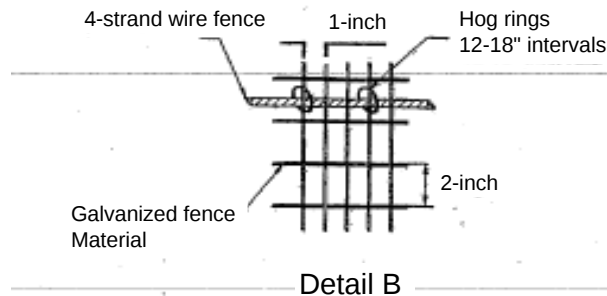
Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	

ATTACHMENT 4

DESERT TORTOISE EXCLUSION FENCE (2005)



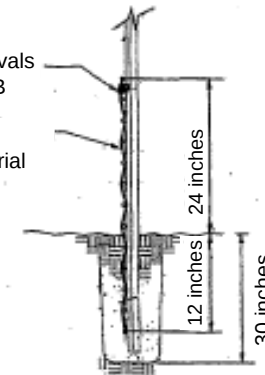
Detail A



4-strand wire fence

Hog rings
12-18" intervals
See Detail B

Galvanized
fence material



Section A

RECOMMENDED DESIGN FOR DESERT TORTOISE EXCLUSION FENCE GENERAL NOTES:

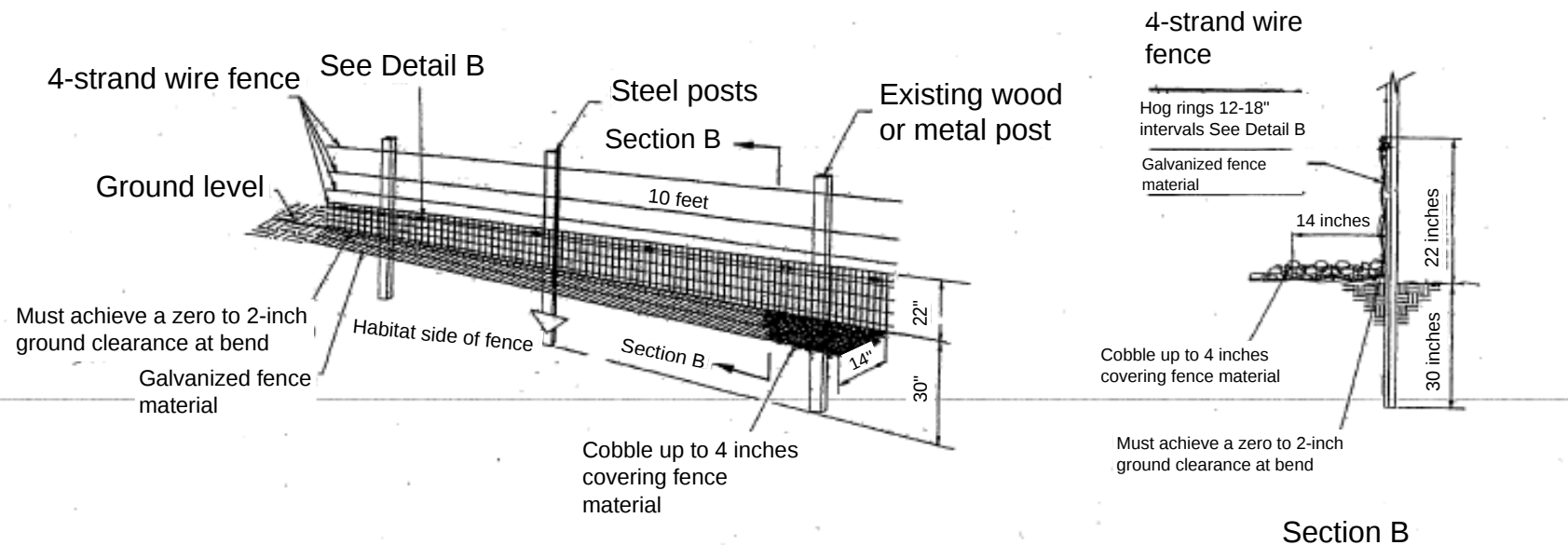
1. Ensure the fence posts and materials conform to the standards approved by the U.S. Fish and Wildlife Service.
2. Ensure that the height above ground level is no less than 18 inches and no higher than 24 inches.
3. Ensure that the depth of fence material below ground level is about 12 inches but no less than 6 inches. (See SECTION A above)
4. Install additional steel posts when span between existing fence posts exceed 10 feet.
5. Attach fence material to existing fence or wire using hog rings at 12-inch intervals.
6. Fasten fence materials to posts with 3 tie wires with a wire near the top, bottom, and center of the fence material.
7. Backfill trenches with excavated material and compact the material.
8. Attach fence material to all gates. Ensure that clearance at base of gate achieves zero ground clearance.
9. Substitute smooth wire for barbed wire if additional support wires are necessary.
10. The number and placement of support wires may be modified to allow sheep and deer to pass safely.
11. Erosion at the edge of the fence material where the fence crosses washed may occur and requires appropriate and timely monitoring and repair.
12. Tie the fence into existing culverts and cattle guards when determined necessary to allow desert tortoise passage underneath roadways.

December 2009

8-4

FOR BEDROCK OR CALICHE SUBSTRATE

1. Use this fence design (see below) only for that portion of the fence where material cannot be placed 6 inches below existing ground level due to presence of bedrock, large rocks or caliche substrate.
2. Ensure that the fence height above ground level is no less than 22 inches.
3. Ensure that there is a zero to 2-inch ground clearance at the bend.
4. Ensure that the bent portion of the fence is lying on the ground and pointed in the direction of desert tortoise habitat.
5. Cover the portion of the fence that is flush with the ground with cobble (rocks placed on top of the fence material to a vertical thickness up to 4 inches).
6. When substrate is no longer composed of bedrock or caliche substrate, install fence using design shown above.



[Financial institution letterhead]

IRREVOCABLE STANDBY LETTER OF CREDIT
NO. **[number issued by financial institution]**

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
960 Riverside Parkway, Suite 90
West Sacramento, CA 95605
Attn: HCPB Mitigation Funds

Amount: U.S. \$**[dollar number]** **[(dollar amount)]**

Expiry: **[Date]** at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, **[name of applicant]** ("Applicant"), we, **[name of financial institution]** ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$**[dollar number]** **[(dollar amount)]** ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by CDFW to the Applicant on **[date]** (No. **[number]**) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A,

which is attached hereto, at our office located at [***name and address of financial institution***].

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Manager of CDFW's Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 960 Riverside Parkway, Suite 90, West

Sacramento, CA 95605, Attn: HCPB Mitigation Funds; and (ii) for the Applicant:
[name and address of applicant].

15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the laws of the State of California.
17. This Credit shall, if not canceled, expire on **[expiration date]**, or any extended expiration date.
18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____
Name: _____
Title: _____
Telephone: _____

ATTACHMENT A

CERTIFICATE FOR DRAWING

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

Re: Irrevocable Standby Letter of Credit No. **[number issued by financial institution]**

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced standby letter of credit ("Credit"), hereby certifies to the Issuer that:

1. **[Insert one of the following statements:** "In the opinion of CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "As set forth in paragraph 13, the Issuer has informed CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.
3. CDFW is therefore making a drawing under the Credit in amount of U.S. \$_____.
4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, CDFW has executed and delivered this Certificate as of this ____ day of **[month]**, **[year]**.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[Insert one of the following: "Director" **or** "General Counsel" **or** "Regional Manager, [Name of Regional Office]" **or** "Branch Manager, Habitat Conservation Planning Branch"]

ATTACHMENT B

CERTIFICATE FOR CANCELLATION

[**CDFW Letterhead**]

[**Date**]

[**Name and address of financial institution**]

Re: Irrevocable Standby Letter of Credit No. [**number issued by financial institution**]

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in the paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. [**Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. CDFW therefore requests the cancellation of the Credit.

Therefore, CDFW has executed and delivered this Certificate for Cancellation as of this ____ day of [**month**], [**year**].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[**Insert one of the following:** "Director" **or** "General Counsel" **or** "Regional Manager, [**Name of Regional Office**]" **or** "Branch Manager, Habitat Conservation Planning Branch"]